



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A(MD)No.807 of 2016
and
C.M.P(MD)No.7741 of 2016

The Branch Manager,
Tamil Nadu State Transport Corporation, (TNSTC),
Thirumayam Road,
Pillaithanneerpandal,
Pudukkottai District. : Appellant/Respondent

Vs.

1.Navaneetham : Respondent No.1/Petitioner No.1
2.Minor.Nithiyasri : Respondent No.2/Petitioner No.2
3.Minor.Karuppiah : Respondent No.3/Petitioner No.3
(Minors 2 and 3 represented through their Mother
and Natural Guardian 1st respondent herein)
4.Solai : Respondent No.4/Petitioner No.4
5.Vasantha : Respondent No.5/Petitioner No.5

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the judgment and decree passed by the Motor Accident Claims Tribunal (Additional District & Special Court), Pudukkottai, in MCOP No.542 of 2012, dated 13.08.2015.

For Appellant : Mr.D.Sivaraman

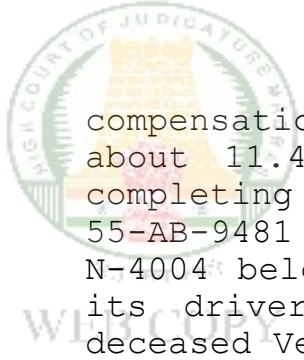
For Respondents : Mr.G.Sridharan

JUDGMENT

[Judgment of the Court was made by K.KALYANASUNDARAM,J.]

Challenging the award passed by the Motor Accident Claims Tribunal (Additional District & Special Court), Pudukkottai, in MCOP No.542 of 2012, dated 13.08.2015, the Transport Corporation has preferred this appeal.

2.The legal heirs of the deceased Venkatesan, who died in a motor vehicle accident on 21.07.2012, filed a petition claiming



compensation of Rs.90,00,000/- on the ground that on 21.07.2012 at about 11.45 hours, when the deceased was returning home, after completing his work in his two-wheeler bearing Registration No.TN-55-AB-9481 towards Pudukkottai, a bus bearing Registration No.TN-01-N-4004 belonging to the appellant/Transport Corporation, driven by its driver in a rash and negligent manner, dashed against the deceased Venkatesan. In the accident, he sustained grievous injuries and died on the spot.

3.The claimants have further stated that the deceased was working as a Veterinary Inspector and he was drawing a salary of Rs.21,000/- per month. A case in Crime No.313 of 2012 was registered under Section 304(A) of IPC by Ganesh Nagar Police Station, Pudukkottai.

4.The appellant Transport Corporation resisted the claim contending that the deceased was responsible for the accident and the claim of Rs.90,00,000/- is highly excessive.

5.The tribunal, after analyzing the oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the appellant bus caused the accident and awarded compensation of Rs.43,12,880/-. Challenging the award, the present appeal has been filed.

6.Heard both sides and perused the materials available on record.

7.The manner of accident and the finding on the negligent aspect are not disputed by the appellant and the appeal is confined only to quantum of compensation.

8.In the instant case, the deceased died at the age of 35 is proved by marking his Service Register (Ex.P12). PW3 official of the Veterinary Department has stated that the deceased was working as a Veterinary Inspector and was earning Rs.18,430/- per month. Ex.P13 is the salary certificate. Following the principles laid down in the case of Sarla Verma, the tribunal added 50% for future prospects, which comes to Rs.27,645/-, but instead of applying multiplier 15, multiplier 16 was adopted by the tribunal. Therefore, by applying proper multiplier, this court awards Rs.35,79,450/- (Rs.27,645/- x 12 x $\frac{3}{4}$ x 15) towards loss of dependency, in the place of Rs.39,80,880/-. In other respects, the award is confirmed.

9.The award of the tribunal is modified as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	39,80,880	35,79,450	reduced
2.	For Loss of love and affection	2,00,000	2,00,000	confirmed
3.	Transport and Funeral Expenses	25,000	25,000	confirmed
4.	Loss of consortium to the first claimant	1,00,000	1,00,000	confirmed
5.	Damage to cloths	2,000	2,000	confirmed
6.	Damage to cell phone and watch	5,000	5,000	confirmed
	Total	43,12,880/-	39,11,450/-	By reducing a sum of Rs.4,01,430/-

10.In the result, this Civil Miscellaneous Appeal is partly allowed. The claimants are entitled to Rs.39,11,450/- as against Rs.43,12,880/- awarded by the Tribunal. The interest awarded by the tribunal is maintained.

11.It is represented by the learned counsel for the appellant that the Transport Corporation has already deposited 75% of the award amount. Hence, the appellant is directed to deposit the balance modified amount, within a period of eight weeks, less the amount already deposited. On such deposit, the major claimants are permitted to withdraw their respective shares as apportioned by the tribunal with proportionate accrued interest and costs. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar



To,

The Additional District and Special Judge,

The Motor Accident Claims Tribunal, Pudukkottai.

Copy to: The Section Officer, .V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+One cc to Mr.G.Sridharan, Advocate, SR.No.83221

+One cc to Mr.D.Sivaraman, Advocate, SR.No.83162

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RL/5C/4P/SV/MMS/SAR1/26/12/2017

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