



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) No.268 of 2015
and C.M.P. (MD) No.7885 of 2017

1.V.Sumathi

2.V.Velumani

3.Minor V.Arthi

4.Minor V.Vishwa

(3rd and 4th appellants

Represented by the 1st Appellant who is the
mother of her minor children)

... Appellants/Petitioners

Vs.

Managing Director,
M/s. Tamil Nadu State Transport
Corporation Limited,
Madurai.

... Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 29.11.2013 in M.C.O.P.No.339 of 2012 on the file of the IV Additional District Judge cum Motor Accidents Claims Tribunal, Madurai.

For Appellants : Mr.R.Venkatesan
For Respondent : Mr.P.Prabhakaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Claimants against the award dated 29.11.2013 in M.C.O.P.No.339 of 2012 on the file of the Motor Accident Claims Tribunal, Madurai.

2. On 09.11.2011, while the deceased minor was trying to board the respondent's bus bearing Registration No.TN-58-1792 in the bus stop opposite to Sowrashttra Higher Secondary School 2nd gate at Kamarajar Salai, due to rash and negligent driving the iron rod of the bus stabbed on the upper part of right thigh of the deceased and he suffered from blood oozing heavily and thereafter he died.

3. The claimants filed an application in M.C.O.P.No.339 of 2012 on the file of the IV Additional District Judge cum Motor Accidents Claims Tribunal, Madurai, seeking compensation.

<https://hcservices.ecourts.gov.in/hcservices/>

4. Before the Tribunal, the claimants examined two



witnesses as P.Ws.1 and 2 and marked nine documents as Ex.P.1 to Ex.P.9. On the side of the Transport Corporation, two witnesses were examined as R.Ws.1 and 2 and four documents were marked as Ex.R.1 to Ex.R.4.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the rider of the Transport Corporation and held that the Transport Corporation is liable to pay the compensation.

6. Against which, the claimants have filed this present appeal questioning quantum of compensation.

7. This Court heard the submissions made by the learned counsel for the appellants/claimants and the learned counsel appearing for the respondent Transport Corporation and perused the materials available on record.

8. A perusal of the judgment of the Tribunal, it is seen that the Tribunal has relied on the judgment reported in 2012 ACC 180 (Sunil Kumar Vs. Gopal Shah and another). Following the said Judgment, the Tribunal has awarded a sum of Rs.2,25,000/- towards loss of dependency. Totally, the Tribunal has granted a sum of Rs.4,10,000/- as compensation.

9. The learned counsel for the appellant would submit that the Hon'ble Supreme Court in **Kishan Gopal and another Vs. Lala and others** reported in **2013(2) TN MAC 358 (SC)** has granted Rs.5,00,000/- as total compensation for the death of 10 years old boy. Following the same, the total award amount is increased from Rs.4,10,000/- to Rs.5,00,000/-.

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.4,10,000/-** (Rupees four Lakhs and ten thousand only) to a sum of **Rs, 5,00,000/-** (Rupees five lakhs only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs; No costs.

(ii) The Transport Corporation is directed to deposit the award amount with accrued interests and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw the respective shares with accrued interest and costs as apportioned by the Tribunal, without filing any formal application before the Tribunal. The Tribunal is directed to deposit the share of the minors in any one of the nationalized bank till they attain majority and the first appellant/first petitioner is permitted to withdraw the interest



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once in three months. No Costs.
miscellaneous petition is closed.

Consequently, connected civil

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

The IV Additional District Judge,
Motor Accident Claims Tribunal,
Madurai.

Copy To:-

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.R.VENKATESAN, ADVOCATE IN SR No. 77143
+ 1 CC TO Mr.P.PRABHAKARAN, ADVOCATE IN SR No. 77227

CM

TE/JC/SAR-I : 02/11/2017 : 3P/5C

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