



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) No.371 of 2017
and
CMP (MD) No.7642 of 2017

1.Manoharan
2.Yesotha

... Appellants/Petitioners

Vs

1. Raja Agencies

2. The Oriental Insurance Company Ltd.,
DO2, UIL Building, 4th Floor,
8, Esplanade,
Chennai-18.

... Respondents/Respondents

(1st respondent is the owner of the
vehicle set ex-parte before the Tribunal.
Hence, 1st respondent may be dispensed with)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 26.11.2014 in M.C.O.P.No.565 of 2013 on the file of Motor Accident Claims Tribunal / Special District Court, Trichy seeking enhancement of compensation to the tune of Rs.4,90,000.

For appellants : Mr.Manoharan
For R2 : Mr.K.Bhaskaran

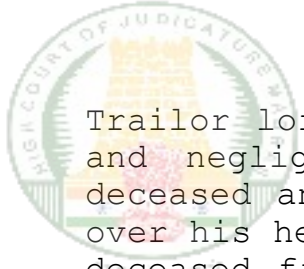
JUDGMENT

This Civil Miscellaneous Appeal is directed against the judgment dated 26.11.2014 in M.C.O.P.No.565 of 2013 on the file of Motor Accident Claims Tribunal / Special District Court, Trichy.

2.Before the Tribunal, the appellants are the petitioners and the respondents are the respondents.

3. The case of the claimant in the petition is briefly as follows:

On the fateful day i.e. On 28.04.2011 at about 09.15 p.m., the deceased Bannathya drove a two wheeler bearing registration No.TN 48 Q 6214 TVS Sport on his left side edge, on Trichy to Dindigul main road and when he nearing Ondi kovil pathivu, Korai River Bridge, a



Trailor lorry bearing registration No.TN 04 AH 1600 came in a rash and negligent manner and dashed against the back side of the deceased and due to that, left back of the trailor lorry wheel run over his head and he died on the spot. Hence, the legal heirs of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.8,00,000/- as compensation.

4. Before the Tribunal on the side of the petitioners, P.Ws.1 & 2 were examined and Exs.P1 to P5 were marked. On the side of the respondents, R.Ws.1 and 2 were examined and Exs.R1 and R2 were marked.

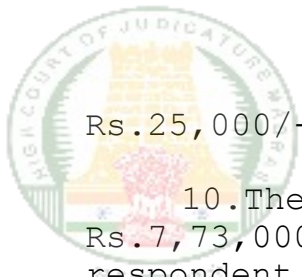
5. On consideration of the evidence available on record, the Tribunal has awarded a sum of Rs.3,10,000/- with interest at the rate of 7.5%. Aggrieved by the said award, the claimants are before this Court.

6.The learned counsel for the appellants/claimants would submit that the deceased person is a bachelor at the time of accident and he studied at New Polytechnic College, Trichy and at the evening time, he worked as painter in Body Builder Company (Tee-Tea Body Builder), Prattiyyur, Trichy and was earning a sum of Rs.6,000/- p.m., but the Tribunal has fixed his monthly salary as Rs.3,000/- only and the learned counsel by relying upon the Judgement of this Court in **SYED SADIQ v. DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD.**, reported in **2014 (1) TN MAC 459**, would submit that the Tribunal has not considered the future prospects of the deceased and has fixed his monthly income as Rs.1,500/- only, after deducting his personal expenses, which is not correct and hence, the same may be enhanced.

7.On the earlier date of hearing, this Court directed Mr.K.Bhaskaran, learned counsel to take notice on behalf of the second respondent and to get instruction. Today, on instruction, he would submit that for the student, taking his monthly salary as Rs.6,000/- would be higher side and hence, a sum of Rs.4,000/- can be taken as his monthly income.

8.Considering the submissions made on both sides, I am of the view that since the deceased was a student at the time of accident, his monthly income shall be taken as Rs.4,000/-. Based upon the Judgement of this Court reported in **2014 (1) TN MAC 459 (stated supra)**, 50% of the income is taken for future prospects, which comes to Rs.6,000/-. After deducting 50% for his personal expenses, his monthly income is taken as Rs.3,000/- p.m. If 18 multiplier is adopted, it works out to Rs.3,000 x 12 x 18 = Rs.6,48,000/- for loss of income.

9.The Tribunal has also awarded a sum of Rs.30,000/- towards loss of love and affection, which is not correct and hence, the same is enhanced to Rs.1,00,000/-. Similarly, the award of the Tribunal towards transportation and funeral expenses is also enhanced to



Rs.25,000/- from Rs.10,000/-.

10.The claimants are entitled to the enhanced compensation of Rs.7,73,000/- along with interest at the rate of 7.5%. The second respondent / Insurance Company is directed to deposit the entire award amount, less the amount already deposited, with accrued interest at the rate of 7.5% per annum, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit being made, the claimants are entitled to withdraw their award amount as apportioned by the Tribunal, with proportionate interest and costs, without filing any formal petition before the Court below.

11.The appellants/claimants are directed to pay the additional Court fee, if any, within a period of two weeks from the date of receipt of a copy of this order.

12.In the result, the Civil Miscellaneous appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The Special District Judge,
Motor Accident Claims Tribunal,
Trichy.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.K.BHASKARAN, ADVOCATE IN SR No. 74058
+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 74470

RJ2

TE/SKN-RSK/SAR-II : 07/09/2017 : 3P/5C

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