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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.08.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 1946 of 2013

and

M.P.(MD)No.3 of 2013

National Insurance Company Limited,
157, Karamadai Road,
Mettupalayam,
Coimbatore District-641 301.

... Appellant /Respondent No.2

Vs.

1. R.Geethalakshmi
2. Minor S.R.Raj Dinesh
3. Minor R.Niranjana Kumar
(minor 2&3 are represented through their mother
R.GEETHALAKSHMI, the first respondent herein)

4. Mahalakshmi ... Respondent Nos.1 to 4/Petitioners 1 to 4
5. R.Eswaran ... Respondent No.5 / Respondent No.1

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, II Additional Sub Court, Tiruchirapalli in M.C.O.P.No.1087 of 2007 dated 05.03.2012.

For Appellant : Mr.D.Sivaraman
For R1 to R4 : Mr.A.Haja Mohaideen
for Ms.T.Jayanthi Rani

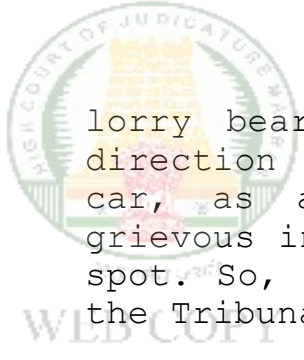
J U D G M E N T

This Civil Miscellaneous Appeal has been filed to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, II Additional Sub Court, Tiruchirapalli in M.C.O.P.No.1087 of 2007 dated 05.03.2012.

2. Before the Tribunal, the appellant herein is the second respondent and the respondents 1 to 4 herein are the petitioners and the fifth respondent herein is the first respondent.

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

On 09.08.2005, the deceased Ravichandran was riding his Ambassador car bearing registration No.TMD - 9699 on the Trichy to Karur main road from east to west and when he nearing K.Pettai, a



lorry bearing registration No.TN 41/B 2131 came in a opposite direction in a rash and negligent manner and dashed against the car, as a result of which, the said Ravichandran sustained grievous injuries all over the body including head and died on the spot. So, the legal heirs of the deceased filed a petition before the Tribunal claiming a sum of Rs.30,00,000/- as compensation.

4. Before the Tribunal on the side of the petitioners, P.Ws.1 and 2 were examined and Exs.P1 to P21 were marked. The respondent has not chosen to adduce any documentary or oral evidence.

5. On consideration of the evidence available on record, the learned Principal District Judge, Virudhunagar has awarded a sum of Rs.18,95,000/- as compensation with 7.5% interest. Challenging the Judgement, the appeal has been filed by the Insurance Company.

6. At the outset, the learned counsel for the appellant submitted that he is not disputing the accident but he is disputing the quantum only. So, the finding of the Tribunal regarding rash and negligent driving of the driver of the bus does not require any interference. He would further submit that the Tribunal should not have fixed the monthly salary at Rs.15,000/- for calculating the loss of income and the amount of Rs.18,00,000/- awarded for loss of income is on the higher side, which should be reduced.

7. The learned counsel for the respondents 1 to 4/claimants contented that the Tribunal awarded a just and reasonable compensation and the same does not require interference.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

9. In my considered opinion, when there is no proof for the income of the deceased, the fixation of monthly salary of the deceased at Rs.15,000/- is not correct, and hence, this Court fixes the monthly salary at Rs.9,000/- by adding 30% for future prospects, the amount would come to Rs.11,700/- and after deducting 1/3 for personal expenses, the amount for loss of income would come to Rs.14,74,000/-(Rs.11,700/- x 3/4 x 12 x 14). The amount of Rs.18,00,000/- awarded for loss of income is reduced to **Rs.14,74,000/-**.

10. During the course of argument, the learned counsel for the claimants would submit that the Tribunal has only awarded Rs.20,000/- towards loss of consortium; Rs.60,000/- for loss of love and affection and Rs.5,000/- for funeral expenses, which should be increased. Considering the same, this Court enhances the amount to **Rs.1,00,000/-** towards loss of consortium; **Rs.1,50,000/-** towards loss of love and affection and **Rs.25,000/-** towards funeral



expenses. The Tribunal has awarded a sum of **Rs.10,000/-** towards Transportation, which is correct and hence, the same is confirmed.

11. This Court modifies the award of the Tribunal in the following manner:

S.N o.	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income	18,00,000	14,74,000	reduced
2.	For loss of consortium	20,000	1,00,000	enhanced
3.	Loss of love affection	60,000	1,50,000	enhanced
4.	For transportat ion	10,000	10,000	confirmed
5.	Funeral expenses	5,000	25,000	enhanced
	Total	Rs.18,95,000/-	Rs.17,59,000/-	By reducing a sum of Rs.1,36,000/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the award of the Motor Accidents Claims Tribunal, II Additional Sub Court, Tiruchirapalli, is hereby modified. The total compensation awarded by the Tribunal is reduced from **Rs.18,95,000/-** to **Rs.17,59,000/-**. The appellant/Insurance Company is directed to deposit the award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the respondents 1 to 4/claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs without filing formal permission petition. The share of the minors shall be deposited in any one of the nationalized banks under Fixed Deposit. The first claimant/mother of the minors shall withdraw interest once in three months till they attain majority. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()



To

The II Additional Subordinate Judge,
The Motor Accident Claims Tribunal,
Tiruchirapalli.

+ 1 CC TO MR.D.Sivaraman, ADVOCATE IN SR No.74826

+ 1 CC TO MR.A.Haja Mohaideen, ADVOCATE IN SR No.75194

rj2

MK/MR KKR/SAR-1/11.10.2017/4P/4C

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