



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.1951 of 2013

1.P.Tamil Selvi
2.Minor.P.Sineka
3.Minor.P.Narmatha

... Appellants 1 to 3 / Petitioners

(Minor 2 and 3 appellants are represented through their Mother / natural guardian the 1st appellant herein)

Vs.

1.Tamil Nadu State Transport Corporation,
Karaikudi, represented through
Its General Manager, Sivagangai District.

... 1st Respondent/Respondent

2.K.Pushpalatha

... 2nd Respondent/4th Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by Motor Accident Claim Tribunal/Subordinate-Court, Devakottai in M.C.O.P.No.108 of 2008, dated 26.08.2009.

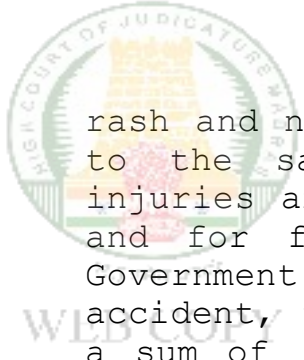
For Appellants :Mr.R.Boomirajan
For Respondents :Mr.P.Prabhakaran
for R.1

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants, against the judgment and decree passed by the Motor Accident Claim Tribunal/Subordinate-Court, Devakottai in M.C.O.P.No.108 of 2008, dated 26.08.2009.

2. The brief facts of the case are as follows and the ranks of the parties have been mentioned as they have mentioned before the Tribunal:

It is a case of fatal in which the accident took place on 03.02.2008 at about 02.45 p.m. While the deceased was riding in his Bajaj M-80 bearing Registration No.TN-63-8347 in Karaikudi near Agathiyar Thirumana Mahal, Karaikudi, a bus belonging to the Tamil Nadu State Transport Corporation bearing Registration No.T.N.63-N-0617, came in the opposite direction in a



rash and negligent manner and dashed against the motorcycle. Due to the said impact, the deceased sustained several grievous injuries and he was admitted in the Karaikudi Government Hospital and for further treatment, he was admitted in Madurai Rajaji Government Hospital. On 04.02.2008, he was died. At the time of accident, the deceased was aged about 27 years and he was earning a sum of Rs.4,500/- per month by working in a Mixture Shop. Hence, the legal heirs of the deceased /claimants filed an application in M.C.O.P.No.108 of 2008, on the file of the Motor Accident Claims Tribunal/Sub-Court, Devakottai seeking a sum of Rs.6,50,000/- as compensation.

3. Before the Tribunal, on the side of the claimants, three witnesses viz., P.Ws.1 to 3 were examined and eight documents viz., Ex.P.1 to Ex.P.8 were marked and on the side of respondent, one witness viz., R.W.1 was examined and no document was marked.

4.The Tribunal, after considering the pleadings, oral and documentary evidences and arguments of the counsel for the claimants and respondent and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the bus and directed the respondent/Transport Corporation to pay a sum of Rs.4,94,000/-, as compensation to the claimants.

5. Against which, the appellants/claimant have filed the present Civil Miscellaneous Appeal seeking enhancement of compensation.

6. The learned Counsel for the appellants/claimants would submit that when the deceased was earning a sum of Rs.4,500/- per month, the Tribunal while arriving loss of income, it has taken only a sum of Rs.3000/- as monthly income and it has not taken any amount for future prospects. The amounts awarded under other heads are also very meagre. Hence, he seeks enhancement of the same.

7. The learned Counsel for the respondent/Tamil Nadu State Transport Corporation would submit that based on the oral and documentary evidences, the Tribunal has come to the correct conclusion and awarded just and reasonable compensation. Hence, he prays for dismissal of this appeal.

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

9. Considering the facts and circumstances of the case, this Court is of the view that the amounts awarded by the various heads are also very very meagre. If the monthly income of the deceased has been increased and if the loss of income arrived properly, the

amount will become very high. Since the appellants/claimants are restricted their claim in this appeal to a sum of Rs.1,56,000/-, this Court is inclined to award the same under various heads. Considering the age of the wife of the deceased and her sufferings due to the loss of her husband, this Court is inclined to grant a sum of Rs.1,00,000/- as loss of consortium to the wife of the deceased. This Court is also of the view that the amount awarded towards loss of love and affection is very low. Hence, this Court is inclined to enhance the same to a sum of Rs.1,00,000/- (Rs.50,000/- each to the two children). Since the Tribunal has not awarded any amount towards loss of estate, this Court is inclined to award a sum of Rs.8,000/-. The amounts awarded towards other heads by the Tribunal are hereby confirmed.

10. In view of the above, this Court modifies the award of the Tribunal by enhancing, modifying and confirming the compensation as under:

S.No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced or granted
1.	For loss of income	4,32,000	4,32,000	confirmed
2	For consortium	20,000	1,00,000	enhanced
3	For love and affection	32,000	1,00,000	enhanced
4	For transportation and funeral expenses	10,000	10,000	confirmed
5	For loss of estate	---	8,000	granted
	Total	4,94,000/-	6,50,000	Enhanced to sum of Rs.1,56,000

11. In the result, this Civil Miscellaneous Appeal is allowed by enhancing the award from Rs.4,94,000/- to a sum of Rs.6,50,000/-, passed in M.C.O.P.No.108 of 2008, on the file of the Motor Accidents Claims Tribunal/Subordinate Court, Devakottai. The first respondent/Tamil Nadu State Transport Corporation is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the appellant No. 1 and the second respondent are directed to withdraw their entire share amount along with accrued interest and costs as apportioned by the Tribunal without filing any formal petition before the Tribunal. Insofar as the minors' shares are concerned, the same shall be deposited in any one of the Nationalised Bank in an renewable



scheme till they attain majority and the guardian of the minors viz., the first appellant is permitted to withdraw the interest amount once in six months directly from the Bank for the welfare of the minors. No Costs.

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Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar.

To,

1. The Subordinate Judge, Motor Accident Claim Tribunal
Devakottai

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

+1CC to Mr.R.Boomirajan, Advocate, SR.No.77161

+1CC to Mr.P.Prabhakaran, Advocate, SR.No.77228

C.M.A (MD) No.1951 of 2013

07.09.2017

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AM/MR KKR/SAR 1/13.11.2017/4P/5C