



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.456 of 2013

1.Stephen Samuvel
2.J.Nesammal
3.S.Joese Veslin Jekan Rose

... Appellants/Petitioners-
claimants

Vs

The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Bye Pass Road,
Tirunelveli.

... Respondent/ Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 30.08.2012 made in M.C.O.P.No.31 of 2008 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Virudhunagar District, Srivilliputtur.

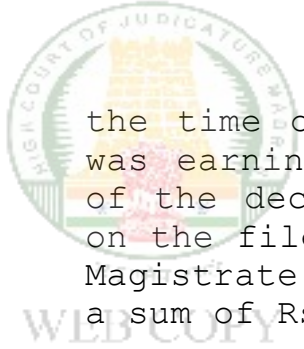
For Appellants : Mr.M.Thirunavukkarasu

For Respondent :Mr.P.Prabhakaran

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants/claimants against the judgment and decree dated 30.08.2012 made in M.C.O.P.No.31 of 2008 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Virudhunagar District, Srivilliputtur.

2. It is a case of fatal in which the accident took place on 02.05.2008 at about 5.30 p.m. When the deceased and his relatives was travelling in a Auto bearing Registration No.T.N.67 K.2455, from Solapuram towards Rajapalayam nearing Vairamthoppu, a bus belonging to the respondent State Transport Corporation bearing Registration No.TN-72-N-0916, came in a rash and negligent manner and dashed against the auto. Due to the said impact, the deceased sustained fatal head injuries. Immediately after the accident, the deceased was admitted in the Government Hospital, Rajapalayam. In spite of best treatment, the deceased succumbed to injuries. At



the time of accident, the deceased was aged about 27 years and was earning a sum of Rs.4,500/- Hence, the legal representatives of the deceased filed an application in M.C.O.P.No.31 of 2008, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Virudhunagar District at Srivilliputtur, seeking a sum of Rs.15,00,000/- as compensation.

3.Before the Tribunal, on the side of the claimants, two witnesses viz., P.W.1 and P.W.2 were examined and sixteen documents viz., Exs.P.1 to P.16 were marked and on the side of the respondent, one witness viz., R.W.1 was examined and two documents viz., Exs.R.1 and R.2 were marked.

4.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellants 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 offending vehicle and directed the Tamil Nadu State Transport Corporation to pay a sum of Rs.4,93,000 to the claimants.

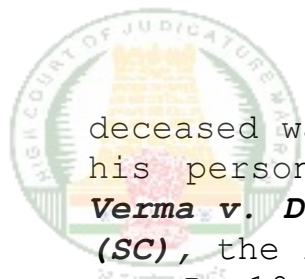
5. Against which, the appellants/claimants filed the present appeal for enhancement of compensation.

6. The learned counsel appearing for the appellants/ claimants would submit that even though, the Tribunal has taken a sum of Rs.7,000/- as monthly income of the deceased, by considering his educational qualification, it has not added any amount towards future prospects while arriving at compensation for loss of income. He further submitted that the amounts awarded under other heads are also very meagre. Hence, he prays for enhancement of compensation.

7. The learned Counsel for the Tamil Nadu State Transport Corporation would submit that based on the oral and documentary evidences, the Tribunal has correctly come to the conclusion and awarded just and reasonable compensation and hence, the award passed by the Tribunal deserves no interference and hence, this appeal has to be dismissed.

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

9. A perusal of the award passed by the Tribunal, it is seen that no amount towards future prospects has been added by the Tribunal and therefore, following the judgment of the Honourable Supreme Court in **Rajesh and others v. Rajbir Singh and others** reported in **(2013) 9 Supreme Court Cases 54**, this Court adds 50% towards future prospects and accordingly, the monthly income would be arrived at Rs.10,500/- (Rs.7,000/-+Rs.3,500/-). Since the



deceased was a bachelor, 50% of the income has to deducted towards his personal expenses and by adopting multiplier as per **Sarla Verma v. Delhi Transport Corporation** reported in **2009 (2) TN MAC 1 (SC)**, the loss of income would be arrived at as follows:

Rs.10,500/-x50%x12x17 = Rs.10,71,000/-

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The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed.

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

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1	For loss of income	4,62,000	10,71,000	enhanced
2	For loss of love and affection	20,000	20,000	confirmed
3	For loss of estate	1,000	1,000	confirmed
4	For funeral expenses	10,000	10,000	confirmed
	Total	4,93,000	11,02,000	Enhanced a sum of Rs.6,09,000

12. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the compensation from Rs.4,93,000/- to Rs.11,02,000/- dated 30.08.2012, passed in M.C.O.P.No.31 of 2008 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Virudhunagar District, Srivilliputtur. The 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 claimants are permitted to withdraw the entire award amount, with accrued interests and costs as apportioned by the Tribunal, without filing any formal petition before the Tribunal. No Costs.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

1. The Chief Judicial Magistrate Court,
Virudhunagar District,
Srivilliputtur.

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

+ 1 cc TO Mr.M.Thirunavukkarasu , Advocate in SR No. 79270
+ 1 cc TO Mr.P.Prabhakaran , Advocate in SR No. 79419

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