



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A.(MD)No.921 of 2013

1.Ayyanar

2.Muthu

... Appellants/Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Madurai Division, Bye Pass Road,
Madurai.

...Respondent/Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order and Decree made in M.C.O.P.No.42 of 2011, dated 25.09.2012, on the file of the Motor Accident Claims Tribunal/Additional District Judge, Virudhunagar.

For Appellants : Mr.M.Thirunavukkarasu

For Respondent : Mr.M.Kayalarasan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants against the award, dated 25.09.2012 made in M.C.O.P.No.42 of 2011 by the Motor Accident Claims Tribunal/Additional District Judge, Virudhunagar.

2.It is the case of the claimant before the Tribunal that when the deceased Karpagam @ Karpagavalli, came out of the her house at Pullallakottai Villakku road, a bus bearing Registration No.TN.58 N 1209 came in rash and negligent manner without adhering the traffic rules and dashed against the deceased. Due to the accident the deceased sustained multiple grievous injuries and taken to Government Hospital, Virudhunagar for treatment and thereafter, she died. Hence, the legal heirs of the deceased filed an application in M.C.O.P.No.42 of 2011, on the file of the Motor Accident Claims Tribunal/Additional District Judge, Virudhunagar, seeking compensation.

3.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.W.1 was examined and no documentary evidence was marked.

4.On consideration of the evidence available on record, the Tribunal has awarded a sum of Rs.1,85,000/- with interest at the



rate of 7.5%. Aggrieved by the said award, the claimants are before this Court.

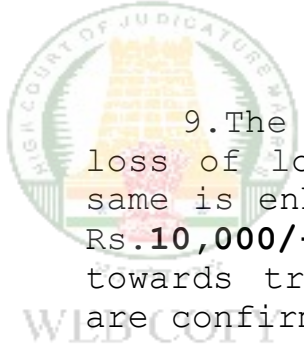
5. The learned counsel for the appellants/claimants would submit that the deceased person is a bachelor at the time of accident and she studied at New Polytechnic College, Trichy and at the evening time, she worked as painter in Body Builder Company (Tee-Tea Body Builder), Prattiur, Trichy and was earning a sum of Rs.6,000/- p.m., but the Tribunal has fixed her annual income only as Rs.10,000/-. The learned counsel has also relied upon the Judgement of the Hon'ble Supreme Court in the case of **Kishan Gopal v. LALA and Others**, reported in **(2014) 1 SCC 244**, wherein, it has been held as follows:-

"39. In view of the aforesaid reasons, it would be just and reasonable for us take his notional income at Rs.30,000 and further taking the young age of the parents, namely, the mother who was about 36 years old, at the time of accident, by applying the legal Principles laid down in Sarla Verma V.DTC the multiplier of 15 can be applied to the multiplicand. Thus, $30,000 \times 15 = 4,50,000$ and 50,000 under conventional heads towards loss of love and affection, funeral expenses, last rites as held in Kerala SRTC v.Susamma Thomas, which is referred to in Lata Wadhwa case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award Rs.50,000 under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants."

6. On the other hand, the learned Counsel for the respondent submitted that the Tribunal has considered all the materials on record and awarded the just compensation. Further, he submitted that there is no reason to enhance the compensation awarded by the Tribunal and hence, he prays for the dismissal of this Civil Miscellaneous Appeal.

7. Heard the learned Counsel appearing for the appellants/claimants and the learned Counsel appearing for the respondent and perused all the materials available on record.

8. Considering the submissions made on both sides and also considering the Judgement of the Hon'ble Supreme Court, reported in **(2014) 1 SCC 244 (stated supra)**, I am of the view that since the deceased was a student at the time of accident, her annual notional income shall be taken as Rs.30,000/- and if 15 multiplier is adopted, it works out to Rs.30,000 x 15 = **Rs.4,50,000/-** for loss of income.



9.The Tribunal has also awarded a sum of Rs.20,000/- towards loss of love and affection, which is not correct and hence, the same is enhanced to **Rs.50,000/-**. The Tribunal has awarded a sum of **Rs.10,000/-** towards funeral expenses and a sum of **Rs.5,000/-** towards transportation, which are reasonable and hence, the same are confirmed.

10.The claimants are entitled to the enhanced compensation of **Rs.5,15,000/-** along with interest at the rate of 7.5%. The respondent / Transport Corporation 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.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To,

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

+1cc to Mr.M.Thirunavukkarasu, Advocate Sr.No.77450

+1cc to Mr.M.Kayalarasan, Advocate Sr.No.77465

RJ2

VB/SV/MMS/SAR3/01/11/2017/3P/5C