

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1209 of 2011

1.Elumalai
2.Vasanth
3.Minor Prakash,
(rep. by Elumalai)

... Appellants

Vs

Managing Director,
Tamil Nadu Government Transport Corporation,
Rangapuram,
Vellore.

...Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 28.01.2010 in M.C.O.P.No.1 of 2007 on the file of Motor Accident Claims Tribunal Judge (District Court, Tiruvannamalai).

For Appellants : Mrs.M.Malar

For Respondent : Mr.K.J.Sivakumar

JUDGMENT

This appeal is filed under Section 173 of the Motor Vehicles Act, 1988 by the claimants seeking for enhancement of the award amount passed by the learned District Judge, Thiruvannamalai in M.C.O.P.No.1 of 2007.

2.The brief case of the claimants is as follows:

The deceased Prabakaran aged 17 years, was studying eleventh standard. On 05.12.2006 at about 5.10 pm, the deceased was proceeding towards his house at Thiruvannamalai Town. He was actually walking on the left hand side of the road. A bus bearing Registration No.TN-23-N-1296 belonging to the Tamil Nadu State Transport Corporation/the appellant herein came rashly and negligently and hit the deceased, as a result of which, the deceased sustained multiple injuries all over his body and was immediately rushed to the Government Hospital, Thiruvannamalai,

from where he was referred to a Hospital at Chennai. However, he succumbed to injuries. According to the claimants, the rash and negligent driving of the driver of the Tamil Nadu State Transport Corporation was the cause of the accident and that they are liable to pay compensation of Rs.10,00,000/- to them.

3.The respondent filed a counter, denying all the allegations of the appellants/claimants herein. The trial Court, after analysing the entire evidence on record, awarded a compensation of Rs.1,58,000/- with interest at the rate of 7.5 % per annum to the claimants. Aggrieved over the same, the claimants are before this Court.

4.Mrs.M.Malar, learned counsel appearing for the claimants relied on the decision of a single bench of this Court in C.M.A.No.2395 of 2016 in which a sum of Rs.10,05,000/- was awarded to a girl who was aged 8 years on the date of the accident. In the decision above, the accident took place only in the year 2014 and the decision of the Honourable Supreme Court in Kishan gopal and another versus Lola, reported in 2013 TN MAC 358 SC was referred in which, the accident took place on 19.07.1992. Since, the case in Kishan gopal (cited supra) was dragged on for 22 long years, the notional income of the deceased was taken up as Rs.30,000/- and a sum of Rs.5,00,000/- was awarded for the death of a boy aged 10 years. The observations made in the decision in Kishan gopal and another versus Lola is extracted hereunder:

"In our considered view, the aforesaid legal principle laid down in Lata Wadhwa's case with all force is applicable to the facts and circumstances of the case in hand having regard to the fact that the deceased was 10 years old, who was assisting the appellants in their agricultural occupation which is an undisputed fact. We have also considered the fact that the rupee value has come down drastically from the year 1994, when the notional income of the non-earning member prior to the date of accident was fixed at Rs.15,000/-. Further, the deceased boy, had he been alive would have certainly contributed substantially to the family of the appellants by working hard. In view of the aforesaid reasons, it would be just and reasonable for us to 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

the case of Sarla Verma V. Delhi Transport Corporation, the multiplier of 15 can be applied to the multiplicand."

Applying the ratio laid down by the Hounourable Supreme Court, a sum of Rs.5,00,000/- is awarded to the claimants with the interest at the rate of 7.5 % per annum from the date of petition till the date of deposit. The balance amount shall be deposited by the Tamil Nadu Government Transport Corporation within a period of two months from the receipt of a copy of this order and on such deposit, the claimants 1 and 2 are permitted to withdraw the amount immediately.

5.In the result, with the above observations the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Court,
Tiruvannamalai.
- 2.The Managing director,
Tamil Nadu Government Transport Corporation.
Rangapuram, Vellore.
- 3.The Section Officer,
V.R.Section, High court, Madras.

+1 cc to M/s.M.Malar, Advocate Sr.No.76837
+1 cc to M/s.K.J.Sivakumar, Advocate SR.No.76694

RJI (CO)
CSL/10.12.2018

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