

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1392 of 2011

1.Sangeetha
2.Minor.Karthikeyan
3.Minor.Sajitha
4.Rajathiammal
(Minors are rep. by next friend
of 1st Appellant Sangeetha)Appellants/Petitioners

..vs..

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Bharthipuram, Dharmapuri.Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 04.08.2009 in M.C.O.P.No.969 of 2008 on the file of the Motor Accident Claims Tribunal, Principal District Court, Dharmapuri.

For Appellant : Mr.R.Selvakumar

For Respondents : Mr.D.Venkatachalam

JUDGMENT

The appellants are the claimants in M.C.O.P.No.969 of 2008 on the file of the Principal District Judge, Motor Accidents Claims Tribunal, Dharmapuri. They filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.20 lakhs for the death of one Saravanan, the husband of the first claimant and father of the claimants 2 and 3 and son of the fourth claimant.

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

On 28.06.2008, the deceased one Saravanan was riding his Hero Pantor Motor Cycle bearing Registration No. TN 29 P 9862 on Dharmapuri - Arasampatti Road. At about 09.30 P.M., a speeding bus bearing Registration No. TN 29 N 1878 belonging to the first respondent hit the two wheeler, as a result of which, the deceased Saravanan was thrown out and died on the spot.

3. According to the appellants/claimants that the rash and negligent driving of the driver of the bus bearing Registration No. TN 29 N 1878 was the cause of the accident and that therefore, the Tamil Nadu State Transport Corporation Limited is liable to pay compensation of Rs.20 lakhs together with interest at the rate of 9% per annum from the date of claim petition till the date of deposit to the claimants.

4. The Tribunal after analysing the evidence on record, awarded a compensation of Rs.4,14,000/- together with interest at the rate of 7.5% per annum. Not satisfied over the quantum of compensation awarded by the Tribunal, the appellants/claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988, seeking enhancement of compensation.

5. Mr.R.Selvakumar, learned counsel appearing for the appellants contended that the trial court has fixed the monthly income of the deceased as Rs.3000/-, even though, he was aged just 38 years on the date of the accident and was owning a Mobile Phone Shop earning a sum of Rs.20,000/- per month.

6. A perusal of the records shows that the appellants/claimants did not adduce any evidence to prove the income of the deceased and therefore, the notional income of the deceased was fixed as Rs.3,000/- per month by the Tribunal. Since it appears to be very meagre, considering the fact that the deceased Saravanan was doing business in buying and selling Cell Phones, a sum of Rs.4,500/- is fixed as monthly income of the deceased. Further, the Tribunal has not awarded any amount towards future prospects. As per the decision rendered in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, 40% should be added towards personal income of the deceased which would come to Rs.6,300/- per month. Since there are four defendants, $\frac{1}{4}$ should be deducted towards the personal expenses of the deceased. The proper multiplier to be adopted in the instant case is 15 as per the decision in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation:

Notional Income = Rs.4,500/-
40% Future Prospects = Rs.1,800/-
Total = Rs.4,500/- + Rs.1,800 = Rs.6,300/-

Multiplier Method:

= Rs.6,300/- * 12 * Multiplier 15 * 1/4 deduction
= Rs.11,34,000/- * 1/4 deduction
= Rs.8,50,500/-

7) Apart from this amount, the appellants/claimants are entitled to a sum of Rs.40,000/-, Rs.15,000/- and Rs.15,000/- towards loss of consortium, funeral expenses and loss of estate respectively. Thus, the compensation amount is enhanced as detailed below:

S. No.	Head	Amount granted
1.	Loss of dependency	Rs.8,50,500 /-
2.	Loss of estate	Rs. 15,000/-
3.	Loss of consortium	Rs. 40,000/-
4.	Funeral expenses	Rs. 15,000/-
Total		Rs.9,20,500 /-

8. In the result,

(i) The appeal is partly allowed. No costs.

(ii) The compensation amount is enhanced from Rs.4,14,000/- to Rs.9,20,500/-. The appellants/claimants are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the payment of Court fee.

(iii) The respondent Tamil Nadu State Transport Corporation Limited is directed to pay the enhanced compensation amount together with interest at the rate of 7.5% per annum on Rs.9,20,500/- from the date of claim petition till the date of

deposit within a period of four weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.No.969 of 2008. On such deposit being made by the respondent, the appellants/claimants are at liberty to withdraw the same.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

vkr/bga

Sub Assistant Registrar

To

1) The Principal District Judge,
Motor Accident Claims Tribunal,
Dharmapuri District.

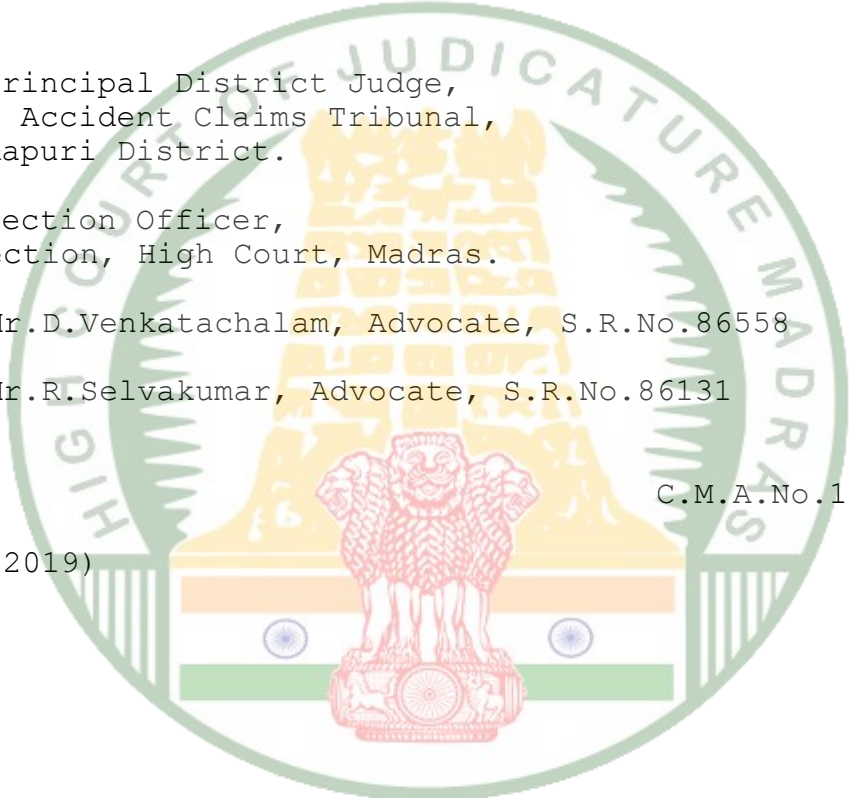
2) The Section Officer,
VR Section, High Court, Madras.

+1 cc to Mr.D.Venkatachalam, Advocate, S.R.No.86558

+1 cc to Mr.R.Selvakumar, Advocate, S.R.No.86131

C.M.A.No.1392 of 2011

BR(CO)
SSM(21/03/2019)

The seal of the High Court of Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red lion capital on a base. The entire emblem is set against a background of horizontal stripes (orange, white, green) with a blue wheel in the center. The words 'HIGH COURT OF JUDICATURE MADRAS' are written in a circle around the emblem. Below the emblem, the motto 'सत्यमेव जयते' is written in Devanagari script.

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