

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A. No.2258 of 2018

- 1.Sagunthala
- 2.Sakthivel
- 3.Sangeetha
- 4.Gandhiammal

... Appellants /Petitioner 1 to 4

-vs-

- 1.The Secretary,
Greenpark School,
Functioning at Postal Nagar,
Bodhupatti (PO), Namakkal (Dt).

- 2.National Insurance Co. Ltd.
Functioning at No.74-A,
Paramathy Road, Namakkal,
Namakkal District - 637 001. ... Respondents /Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the judgment and decree dated 11.01.2017 passed in MCOP.No.206 of 2013 on the file of Principal District Judge and Motor Accident Claims Tribunal, Namakkal.

For Appellants : Mr.C.Thangaraju

For Respondents: R1 - Notice dispensed with
Mr.S.Vadivel for R2

J U D G M E N T

[Judgment of the Court was delivered by R.SUBRAMANIAN, J.]

The claimants are on appeal seeking enhancement. The claimants are the wife, children and mother of the deceased Varadharajan who died in a motor accident that occurred on 12.02.2010.

2. The Tribunal has awarded a sum of Rs.3,88,029/- as

compensation taking into account the imminent retirement of the deceased. At the time of the accident the deceased was aged about 57 years and 8 months and was having only 4 months of service. Therefore, the Tribunal has worked out the loss of dependency based on salary for 4 months and after retirement the Tribunal taken the monthly income of the deceased notionally at Rs.4,500/-, after deducting 1/3rd towards personal expenses has adopted Rs.3,000/- as monthly income. The Tribunal has awarded a sum of Rs.3,000/- each towards loss of estate and funeral expenses and Rs.2,000/- for transportation.

3. We find that the award of the Tribunal is absimally low. It is an admitted fact that the deceased was a driver in the State Transport Corporation having experience of over 25 years. Therefore, he would definitely work after retirement. The monthly salary paid to a private driver is about Rs.20,000/- today. In view of the same, we re-work the compensation as follows:-

As far as the period of employment is concerned, the salary certificate produced shows the income of the deceased as Rs.21,011/-, adding 15% towards future prospects the total income comes to Rs.24,163/-. Deducting 1/4th towards his personal expenses the monthly loss of dependency works out to Rs.18,122/-. We have already concluded that the deceased has only 4 months of service left, therefore, the loss of dependency during the service period would be Rs.72,488/-.

4. After retirement, the deceased would definitely earn atleast Rs.18,000/- per month, being a qualified and experienced driver of heavy motor vehicle. Deducting 1/4th towards personal expenses, the monthly loss of dependency would be Rs.13,500/-. Since, he would retire at the age of 58, we adopt the multiplier of '8' for the purpose of calculating the loss of dependency after retirement. Therefore, the loss of dependency after retirement would works out to Rs.12,96,000/-. Therefore, the total loss of dependency would be,
$$\text{Rs.12,96,000/-} + \text{Rs.72,488/-} = \text{Rs.13,68,488/-}.$$

5. The Tribunal has not awarded any amount towards loss of consortium to the wife and loss of love and affection to the children and the mother. We award a sum of Rs.40,000/- towards loss of consortium to the wife and Rs.20,000/- each towards loss of love and affection to the children and mother i.e, Rs.60,000/-. The award towards loss of estate is enhanced to Rs.15,000, Funeral expenses is enhanced to Rs.15,000/- and transportation is enhanced to Rs.5,000/-. Thus, the award of the Tribunal is modified as follows:-

Award Towards		Amount
Loss of Dependency	:	Rs.13,68,488/-
Loss of consortium	:	Rs. 40,000/-
loss of love and affection to the mother and two children at Rs.20,000/- each	:	Rs. 60,000/-
loss of estate	:	Rs. 15,000/-
Funeral expenses	:	Rs. 15,000/-
Transportation	:	Rs. 5,000/-
Total	:	Rs.15,03,488/-

The same is rounded off to Rs.15,00,000/- with interest at 7.5% per annum. It is stated that the Insurance Company has deposited the entire amount awarded by the Tribunal. The Insurance Company is directed to deposit the balance amount as per the modified award within 6 weeks from the date of receipt of a copy of this judgment. On such deposit the claimants shall withdraw their respective shares.

7. The 1st appellant being the wife would be entitled to Rs.7,00,000/- with proportionate interest and costs. The children viz., son and daughter would be entitled to Rs.3,00,000/- each with proportionate interest. The mother of the deceased would be entitled to Rs.2,00,000/- with proportionate interest.

8. In fine, the appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

dsa

To

1.The Principal District Judge,
Motor Accident Claims Tribunal,
Namakkal.

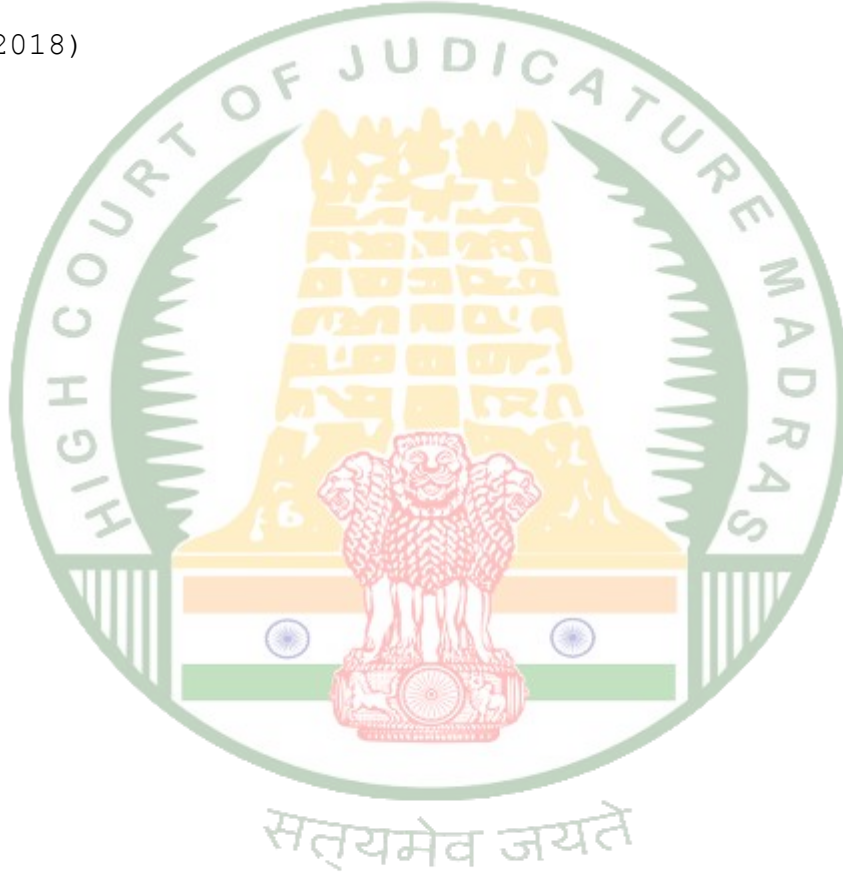
2.The Section Officer,
VR Section, High Court,
Madras.

+2cc's to Mr.C.Thangaraju, Advocate, S.R.No. 73082

+1cc to Mr.S.Vadivel, Advocate, S.R.No. 72600

C.M.A. No.2258 of 2018

RJI (CO)
GN(27/11/2018)



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