



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.07.2018

Pronounced on : 09.08.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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C.M.A. (MD) No.1200 of 2017

and

C.M.P. (MD) Nos.11863 of 2017 & 3366 of 2018

Royal Sundaram Alliance Insurance Company Ltd.,

4th Floor, Kohinoor Arcade,

Kottayam,

Rep. by its Branch Manager.

... Appellant/2nd Respondent

Vs.

1.Vijayalakshmi

...1st Respondent/Claimant

2.Saleel

...2nd Respondent/1st Respondent

3.Tamil Nadu State Transport Corporation,

Ranithottam, Nagercoil,

Rep. by its General Manager.

... 3rd Respondent/3rd Respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the fair and decretal order dated 27.04.2017 made in M.C.O.P.No.498 of 2015, on the file of Motor Accidents Claim Tribunal, Special Subordinate Judge, Tirunelveli.

For Appellant : Mr.M.E.Elango

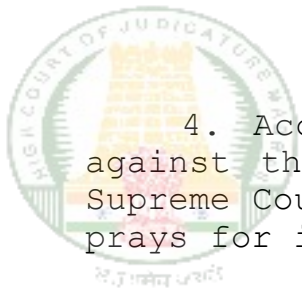
For Respondents : Mr.V.Sasikumar for R.1

JUDGMENT

Assailing the judgment passed by the learned Special Subordinate Judge, Motor Accident Claims Tribunal, Tirunelveli, in M.C.O.P.No.498 of 2015, dated 27.04.2017, the present civil miscellaneous appeal has been filed.

2. Heard the learned Counsel appearing for the respective parties and perused the records carefully.

3. It is a case of fatal. The accident, which is not in dispute, took place on 08.03.2015. The first respondent, who is the mother of the deceased Sanjay, as claimant, has filed the claim petition and the Tribunal, after considering the stated facts and circumstances of the case, has awarded a sum of Rs.8,80,000/- as compensation. Aggrieved over the same, the present appeal is filed, questioning the quantum alone.



4. According to the appellant, the award of the Tribunal is against the principles laid down in the decisions of the Hon'ble Supreme Court and the Division Bench of this Court and therefore, he prays for interference.

5. For better appreciation, the break-up details of the award of the Tribunal is extracted as follows:

Head	Compensation awarded by the tribunal
Loss of income	Rs. 7,20,000/-
Funeral expenses	Rs. 25,000/-
Loss of Love and affection	Rs. 1,25,000/-
Transportation	Rs. 10,000/-
Total	Rs. 8,80,000/-

6. While admitting the liability to the extent of Rs.4,30,000/-, it is contended by the appellant that the remaining amount is excessive and the guidelines given in the following decisions have been overlooked by the Tribunal and therefore, the award has to be interfered with in the light of the following decisions:

- i) R.K.Malik and another v. Kiran Paul and others, reported in 2009 (1) TNMAC 593 (SC);
- ii) National Insurance Co. Ltd. v. R.Vimala, reported in 2015 (2) TNMAC 490 (DB); and
- iii) Kishan Gopal and another v. Lala and others, reported in 2013 (5) CTC 212 (SC) : 2013 (2) TNMAC 358 (SC).

7. In a case of similar nature, this Court, in National Insurance Co. Ltd. v. K.Sugumar and others, reported in 2017 (2) TNMAC 805, has considered the aforesaid decisions relied upon by the appellant and held as follows:

7.1. Insofar as R.K.Malik's case (cited supra) is concerned:

"...In the same case, the Hon'ble Supreme Court has pointed out that the amount specified in the Second Schedule can be followed with regard to Notional Income as the time difference is only three years between the enactment of the Second Schedule and the date of accident. But, in this case, the time difference is more than 25 years. Therefore, the Notional Income has to be taken at a higher level, considering the inflation and reduction in the value of money."

7.2. With regard to Kishan Gopal's case (cited supra), where the road accident occurred in the year 1992 and out of which, a student aged about 10 years died, the Hon'ble Supreme Court has taken the Notional Income of the deceased as Rs.30,000/-.



8. Considering the aforesaid celebrated decisions, this Court, in K.Sugumar's case (cited supra), in which the accident occurred on 29.08.2014, has fixed the Notional Income of the deceased as Rs.60,000/-.

9. In the present case on hand, the date of accident is 08.03.2015 and the deceased was about 8 years old at the time of accident, studying 4th Standard at that time, for whom, the Tribunal has fixed the Notional Income as Rs.5,000/- per month and after deducting 1/3rd towards personal expenses and by taking multiplier 18, a sum of Rs.7,20,000/- was awarded by the Tribunal towards loss of income, which, in the opinion of this Court is very very reasonable. Since the legislation itself is a welfare legislation, this Court does not find any valid ground to interfere with the quantum of award passed by the Tribunal.

10. Perusal of record shows that the Tribunal has awarded the compensation with interest at the rate of 9% per annum, which, in the opinion of this Court is on the higher side and therefore, the same is reduced and fixed at 7.5% per annum. At this juncture, it is represented by the appellant that pursuant to the interim order of this Court, dated 21.12.2017, they had already deposited the entire award amount with accrued interest at the rate of 9%.

11. In result, this civil miscellaneous appeal is partly allowed. The award of the Tribunal dated 27.04.2017 is confirmed. Since it is stated by the appellant that they had already deposited the entire amount, as per the award of the Tribunal, with interest @ 9%, the claimant is permitted to withdraw the entire award amount, being Rs.8,80,000/- with interest @ 7.5% per annum, from the date of petition till the date of deposit and costs, without filing any formal petition before the Tribunal. The balance amount shall be refunded to the appellant. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1.The Special Subordinate Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

2.The Record Keeper,
VR Section,

<https://hcservices.ecourts.gov.in/hcservices/>
Madurai Bench of Madras High Court,
Madurai. (2 copies)



+1CC to Mr.M.E.Elango, Advocate, SR.No. 77940
+1CC to Mr.V.Sasikumar, Advocate, SR.No.77687

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