



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2018

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A (MD) .No.468 of 2017

and

C.M.P (MD) No.5031 of 2017

The Managing Director,
Tamil Nadu State Express Transport Corporation Ltd.,
No.2, Pallavan Salai,
Chennai.

.. Appellant/Respondent

Vs.

1. Anjali Devi

2.Minor Tharanidaran

[The minor 2nd respondent is
represented by his mother
1st respondent]

3.Uthirapathy Malavarayar

.. Respondents/Petitioners

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act,
against the judgment and decree dated 12.01.2017, passed in
M.C.O.P.No.732 of 2016 on the file of the Motor Accidents Claims
Tribunal, Special District Court, Thanjavur.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.G.Karnan

JUDGMENT

This civil miscellaneous appeal has been filed
challenging the award passed by the learned Special District
Judge, Motor Accidents Claims Tribunal, Thanjavur, in
M.C.O.P.No.732 of 2016, dated 12.01.2017.

2. Heard the learned Counsel appearing on either side and
perused the records carefully.

3. It is a case of fatal and the tribunal has awarded a sum of
Rs.4,65,000/- as compensation, against which, the
Appellant/Transport Corporation is on appeal before this Court.

4. It is the grievance of the appellant Corporation that the tribunal has awarded a sum of Rs.1,50,000/- towards loss of love and affection; Rs.1,00,000/- towards loss of consortium; Rs.10,000/- towards loss of Estate; and Rs.25,000/- towards funeral expenses, totalling a sum of Rs.2,85,000/-. These are all nothing but compensation on conventional heads. The Hon'ble Supreme Court, in the case of *National Insurance Company Ltd., v. Pranay Sethi and others*, decided on 31.10.2017, has categorically held that the loss towards conventional heads should be Rs.70,000/- and therefore, the award of the tribunal towards conventional heads should be restricted to Rs.70,000/-.

5. Perusal of records shows that a sum of Rs.14,65,000/- was awarded towards compensation, however, no compensation was awarded towards future prospects. The deceased was 40 years old and was working as Painting Contractor at the time of accident. Therefore, following the decision of the Apex Court in *National Insurance Company Ltd., v. Pranay Sethi and others*, decided on 31.10.2017 (cited supra), if the deceased was below 40 years, 40% shall be taken towards future prospects. Hence, the Tribunal ought to have awarded 40% towards future prospects, instead of 50%.

6. It is a simple math that by fixing the future prospectus as 40% and reducing the compensation towards conventional heads, as discussed earlier, the overall compensation will be as follows:

- ((Income of the deceased + future prospects) - personal expenses) is ((Rs.6,500/- + Rs.2,600/ (40%)) - Rs.3,033/- (1/3)) amounts to Rs.6,067/-.
- By applying the multiplier method, it would be (Rs.6,067/- * 12 * 15) amounting to Rs.10,92,060/-.
- Therefore, the loss of income is reduced and the same is fixed at Rs.10,92,060/-, instead of Rs.11,70,000/-.
- Restricting the conventional head to a sum of Rs.70,000/-, the total award amount would be Rs.11,62,060/- (Rs.10,92,060+Rs.70,000/-) rounded off to Rs.11,62,000/-.

7. In result, this civil miscellaneous appeal is partly allowed and

- the compensation awarded by the tribunal is reduced and fixed at Rs.11,62,000/- [Rupees Eleven Lakh Sixty Two Thousand only];
- The appellant/Transport Corporation is directed to deposit the entire compensation amount awarded by this Court with interest at the rate of 7.5%, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order;
- On such deposit being made, the major claimants are permitted to withdraw the same as apportioned by the tribunal, without formal application before the Tribunal; and the share of the minor claimant shall be deposited in a nationalized bank until he attain majority. The first



respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months;

- If the entire compensation awarded by the tribunal, has already been deposited, then the appellant/Transport Corporation is at liberty to withdraw the excess amount.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1.The Special District Judge,
Special District Court,
Motor Accidents Claims Tribunal,
Thanjavur.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

+1cc to Mr.P.PRABHAKARAN, Advocate, SR.No. 72918

+1cc to Mr.G.KARNAN, Advocate, SR.No. 72939

C.M.A (MD) .No.468 of 2017
and
C.M.P (MD) No.5031 of 2017
13.07.2018

PJL

KK/SV/SAR-2/16.07.2018/3P-6C/