



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A(MD) .No.479 of 2017

and

C.M.P(MD) Nos.5638 of 2018 and 5148 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
Having its office at Kumbakonam. ... Appellant/Respondent

Vs.

1.Tamilselvi
2.Minor Surya Sidhan
3.Minor Hariharavijra ... Respondents/Petitioners

[Minor respondents 2 & 3 are rep.
by their grandmother - 1st respondent]

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act,
against the judgment and decree made in M.C.O.P.No.394 of 2015,
dated 21.04.2016, on the file of the Motor Accidents Claims
Tribunal, Special District Court, Thanjavur.

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

JUDGMENT

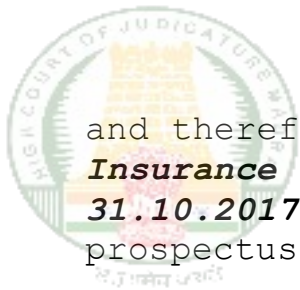
This civil miscellaneous appeal has been filed
challenging the award passed by the learned Special District
Judge, Motor Accidents Claims Tribunal, Thanjavur, in
M.C.O.P.No.394 of 2015, dated 21.04.2016.

2. Heard the learned Counsel appearing on either side.

3. It is a case of fatal and the tribunal has awarded a sum of
Rs.16,21,000/- as compensation, against which, the Appellant /
Transport Corporation is on appeal before this Court.

4. The manner of the accident, which occurred on 27.02.2012,
as well as the liability are not disputed, however, the quantum is
disputed.

5. The learned Counsel for the appellant would submit that
admittedly, the deceased was 28 years old at the time of accident



and therefore, the future prospectus would be 40%, as per **National Insurance Company Ltd., v. Pranay Sethi and others, decided on 31.10.2017**, however, the Tribunal has erred in fixing the future prospectus as 50%.

6. He would further submit that as per **Pranay Sethi's case** (cited supra), maximum compensation towards conventional heads would be Rs.70,000/-, whereas, the Tribunal has awarded a sum of Rs.2,95,000/-, viz., Rs.25,000/- towards funeral expenses; Rs.10,000/- towards loss of estate; Rs.10,000/- towards transportation; Rs.2,00,000/- towards love and affection to 2nd & 3rd minor respondents; and Rs.50,000/- towards loss of consortium, which are nothing but conventional heads. Therefore, he prays for interference of this Court on these two scores.

7. He would also bring to the notice of this Court that the claimants themselves, before the Tribunal, restricted their claim to Rs.10,00,000/-, but, the learned Judge has awarded more than their claim.

8. The learned Counsel appearing for the respondents / claimants, on the other hand, would submit that the second and third (minor) respondents are aged about 6 and 4 years, respectively, at the time of accident and therefore, he prays for some concession at the hands of this Court.

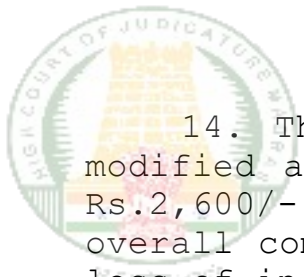
9. This Court has perused the materials placed on record carefully and has applied its mind.

10. It is seen that the Tribunal has assessed the monthly income of the deceased as Rs.6,500/-; deducted 1/3rd towards personal expenses and adopted multiplier 17, which are quite reasonable and as per law and therefore, the same does not warrant interference.

11. It is also seen from the records that though the claimants have claimed only a sum of Rs.10,00,000/-, before the Tribunal, as compensation, the Tribunal has awarded a sum of Rs.16,21,000/-.

12. As per the settled position in law, maximum compensation towards conventional heads would be Rs.70,000/- and future prospectus for self-employed persons, below 40 years of age would be 40%, as rightly contended by the learned Counsel for the appellant Corporation.

13. Therefore, compensation towards all heads, other than loss of income, is hereby deleted and a sum of Rs.70,000/- is awarded towards conventional heads.



14. The award passed under the head loss of income is also modified and the same is fixed at Rs.12,37,668/- [({Rs.6,500/- + Rs.2,600/- (40%)} - (1/3rd) Rs.3,033/-) * 12 * 17)]. Therefore, the overall compensation would be Rs.13,07,668/- [Rs.12,37,668 towards loss of income + Rs.70,000/- towards conventional heads].

WEB COPY

15. Though the claimants have restricted their claim to Rs.10,00,000/-, this Court, considering the age of the minor children, is of the view that ends of justice would be met, if the said amount of Rs.13,07,670/- (~Rs.13,07,668/-) is awarded as compensation.

16. In result,

- The overall compensation awarded by the Tribunal is reduced from Rs.16,21,000/- and the same is fixed at Rs.13,07,670/-.
- The appellant / Transport Corporation is directed to deposit the sum of Rs.13,07,670/- [Rupees Thirteen Lakh Seven Thousand Six Hundred and Seventy only] with accrued interest at the rate of 7.5% and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment.
- On such deposit, the major claimant / first respondent is permitted to withdraw a sum of Rs.3,07,670/- [Rupees Three Lakh Seven Thousand Six Hundred and Seventy only], with accrued interest and costs, without filing any formal application before the Tribunal.
- Insofar as the minor claimants / second and third respondents are concerned, the Tribunal is directed to deposit Rs.5,00,000/- [Rupees Five Lakh only] each, in their name, with accrued interest and costs, in any one of the nationalized banks until they attain majority. The first respondent herein, who is the grandmother / guardian, is permitted to withdraw the interest amount once in three months.

17. With the above modifications, this civil miscellaneous appeal is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

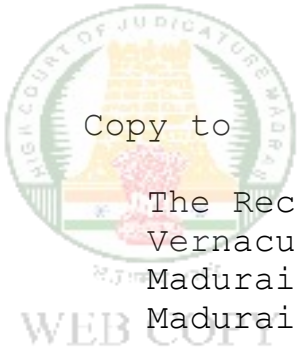
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Special District Judge,
Madurai District Claims Tribunal,
Thanjavur.



Copy to

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

+1cc to Mr.P.Prabhakaran, Advocate Sr.No.72633
+1cc to Mr.G.Karnan, Advocate Sr.No.72559

GK

VB/RP/SAR1/13.08.2018/4P/6C

**C.M.A (MD) .No.479 of 2017
and
C.M.P (MD) No.5638 of 2018
12.07.2018**