



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.1323 of 2013

WEB COPY

- 1.Petchiyammal
- 2.Alagu Parvathi
- 3.Pandi @ Sivan Pandi
- 4.Minor Selva Malathi
- 5.Minor Balasubramani

.. Appellants/ Petitioners

(Minor appellants rep. through
their mother and next friend
1st appellant herein)

Vs.

- 1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vannarpettai, Tirunelveli-3.

- 2.Simiyon

- 3.The New India Assurance Company Limited,
Branch Office,
No.182/22, L, N.S.High Road,
Tirunelveli Junction.

.. Respondents /Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 08.10.2012, passed in M.C.O.P.No.1340 of 2011 by the Motor Accident Claims Tribunal (IV-Additional District Court), Tirunelveli.

For Appellants : Mr.T.Selvakumaran

For Respondent No.1 : Mr.P.Prabhakaran

For Respondent No.2 : No appearance

For Respondent No.3 : Mr.K.Murugesan

JUDGMENT

This civil miscellaneous appeal has been filed challenging the award passed by the learned IV-Additional District Judge, Motor Accidents Claims Tribunal, Tirunelveli in M.C.O.P.No.1340 of 2011, dated 08.10.2012.

2. Heard the learned Counsel appearing on either side and perused the materials placed on record.



3. It is a case of fatal. The manner of the accident and liability is not disputed. The Tribunal has awarded a sum of Rs.4,15,000/-, out of which the **(*)first respondent/Transport Company** was directed to pay only 75% of the amount i.e., Rs.3,11,250/-. Aggrieved by the same, the appellants/claimants have filed this appeal questioning the quantum.

4. The deceased was a vegetable vendor, earning a sum of Rs.8,000/- per month. But, the tribunal had taken Rs.4000/- as monthly income of the deceased for awarding compensation, which, according to the appellants, is very low and the same needs interference of this Court. In *Syed Sidiq etc., v. Divisional Manager, United India Insurance Company Ltd.*, reported in 2014 (1) TN MAC 459 (SC), the Hon'ble Supreme Court has fixed the monthly income of Rs.6,500/- for a vegetable vendor. There was no compensation awarded towards future prospects and the compensation awarded towards conventional heads are also very low. It is the grievance of the appellants that the tribunal has awarded a sum of Rs.50,000/- towards loss of consortium and loss of love and affection; and Rs.10,000/- towards funeral expenses; totalling a sum of Rs.60,000/-. The Hon'ble Supreme Court, in the case of *National Insurance Company Ltd., v. Pranay Sethi and others*, decided on 31.10.2017, had granted Rs.70,000/- towards conventional heads and therefore, prayed for interference.

5. As rightly pointed out by the learned counsel for the appellant, no compensation was awarded towards future prospects. The deceased was 50 years old and was working as vegetable vendor 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), 10% has to be fixed towards future prospects and 13 multiplier (for 50 years) has to be taken for fixing loss of income.

6. When this Court was inclined to increase the compensation, the learned counsel appearing for the **(*)first respondent/ Transport Corporation** contended that the appellants in this appeal have restricted their claim to Rs.4,00,000/- and if Rs.6,500/- is taken as monthly income, 10% of salary is given towards future prospects and Rs.10,000/- is increased towards conventional heads, the compensation will be more than Rs.4,00,000/- and therefore, he has no objection to increase the **(*)liability amount** from Rs.3,11,250/- to Rs.4,00,000/-.

7. In view of the above, the share of the award (75%) passed by the Tribunal to be paid by **(*)first respondent/Transport Corporation** is enhanced from Rs.3,11,250/- to Rs.4,00,000/-. Hence, the **(*)first respondent/ Transport Corporation** is liable to pay the sum of Rs.4,00,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit, less the amount already deposited, within a period of eight weeks from the date of



receipt of a copy of this judgment. On such deposit being made, the major claimants are permitted to withdraw the amount with accrued interests and costs as apportioned by the Tribunal, without filing application before the Tribunal. The Tribunal is directed to deposit the share of the minor claimants in a nationalized bank until they attain majority. The first appellant herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months.

8. This Civil Miscellaneous Appeal is, accordingly, partly allowed. No costs.

Sd/

Assistant Registrar (CS-I)

(*) CORRECTED ORDER

(SUBSTITUTED VIDE COURT ORDER DT.31.10.2018

IN CMA (MD) NO.1323/2013)

/True copy/

Sub Assistant Registrar (CS-I)

To

TO BE SUBSTITUTED TO THE ORDER ALREADY DESPATCHED ON 27/9/2018

1. The IV-Additional District Judge,
Motor Accidents Claims Tribunal,
Tirunelveli.

2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1cc to Mr.P.PRABHAKARAN, Advocate, SR.No. 75115

+1cc to Mr.K.MURUGESAN, Advocate, SR.No.75193

+1cc to Mr.T.SELVAKUMARAN, Advocate, SR.No.75331

C.M.A (MD) .No.1323 of 2013

26.07.2018

PJL

KK/RSK/SAR-4/22.11.2018/3P-5C