



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .Nos.197 and 198 of 2013

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C.M.A. (MD) .No.197 of 2013:

1.Mariadoss Marirajan
2.Muthulakshmi

.. Appellants /
Petitioners

Vs.

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vannarapettai,
Tirunelveli.

... Respondent /
Respondent

C.M.A. (MD) .No.198 of 2013:

Maharaja Kumar

.. Appellant /
Petitioner

Vs.

Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vannarapettai,
Tirunelveli.

... Respondent /
Respondent

PRAYER:- Appeals filed under Section 173 of the Motor Vehicles Act, against the award, dated 02.05.2011, made in M.C.O.P.Nos.1433 and 1438 of 2010 by the Motor Accident Claims Tribunal / Fast Track Court No.II, Tirunelveli.

For Appellants in
both the appeals : Mr.T.Selvakumaran

For respondent in
both the appeals : Mr.P.Prabhakaran

COMMON JUDGMENT

Heard the learned counsel appearing for both sides and perused the records carefully.

2. The appellants in C.M.A.(MD).No.197 of 2013 are the parents of the victim, who died in the accident. The Tribunal has fixed 25% liability on the deceased and 75% liability on the respondent and awarded a sum of Rs.2,25,000/- in favour of the claimants. Seeking enhancement of the award amount, the appellants have filed this appeal.



3. The appellant in C.M.A.(MD).No.198 of 2013 is the injured in the very same accident. The Tribunal has rejected the claim of the appellant holding that he has sustained only simple injuries. Aggrieved by the same, the claimant / appellant has filed this appeal.

C.M.A. (MD) .No.197 of 2013:

4. The learned counsel appearing for the appellants in C.M.A. (MD).No.197 of 2013 would submit that the deceased was a +2 student and he was doing part time work and earning a sum of Rs.3,000/- p.m., but the Tribunal has taken only a sum of Rs.2,500/- p.m. and that the future prospects have not been added by the Tribunal. He would further submit that though the age of the mother of the deceased was 37 years, the Tribunal has notionally taken the age of the mother of the deceased as 45-49 years and erroneously adopted multiplier No.13 and when there is no contra evidence, the Tribunal ought to have taken the age of the mother of the deceased as 37 years and adopted the multiplier No.16. Even if the age of the deceased ie., 17 years is taken into account, the multiplier to be adopted is 16. Thus, he prayed to enhance the award amount.

5. The learned counsel appearing for the respondent would submit that as the deceased was a bachelor, the Tribunal, without deducting 50% of the amount, has deducted 1/3rd amount and therefore, he prayed to confirm the award amount.

6. As stated by the appellants, the Tribunal has taken into account only Rs.2500/- as income earned by the deceased. Considering the year of the accident ie., 2010 and age of the deceased, this Court is of the view that it would be appropriate to take into account Rs.3000/- as monthly income. If 40% future prospects is added, the monthly income comes to Rs.4200/- (Rs.3000 + 40%) and thus, the annual income comes to Rs.50,400/-. As the deceased was a bachelor, the Tribunal should have deducted 50% of the salary for personal expenses. If it is so deducted, the annual loss of income comes to Rs.25,200/-. Time and again, the Hon'ble Supreme Court has held that even if the deceased is a bachelor, the age of the deceased alone is to be taken into account for fixing the multiplier factor and in such a way, the Tribunal could have very well adopted Multiplier No.16, according to the age of the deceased. If the annual loss of income of the deceased is multiplied with 16, the total loss of income comes to Rs.4,03,200/- (Rs.3000/- + 40% = 4,200) (50% of Rs.4200/- = 2100 x 12 x 16). Instead of the compensation awarded on the other heads, this Court is inclined to award a sum of Rs.70,000/- on the head of interest on the principal and thus, the total compensation comes to Rs.4,73,200/-. As fixed by the Tribunal, if 25% of the amount is



deducted towards liability for causing accident, the total compensation amount payable by the respondent is Rs.3,54,900/-. The Tribunal has fixed interest at the rate of 8% p.a. and this Court is not inclined to interfere with the same.

C.M.A. (MD).No.198 of 2013:

7. The learned counsel appearing for the appellant in C.M.A. (MD).No.198 of 2013 would submit that though the appellant sustained multiple injuries due to the rash and negligent driving of the driver of the respondent / Transport Corporation, the Tribunal has failed to award even a meagre sum of Rs.50,000/- claimed by the appellant.

8. A perusal of the record shows that the injuries sustained by the appellant / claimant were only minor injuries. After a detailed analysis, the Tribunal has held that the appellant was also responsible for the accident and therefore, refused to grant any award. This Court does not find any reason to interfere with the same.

9. In the result, (a) C.M.A.(MD).No.197 of 2013 is allowed and the award is enhanced from Rs.3,00,000/- to Rs.4,73,200/-. After deducting 25% of the amount towards liability, the appellants / claimants are entitled to receive Rs.3,54,900/- with accrued interests and costs, as apportioned by the Tribunal. The respondent / Transport Corporation is directed to deposit the entire award amount, less the amount already deposited, with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants / claimants are permitted to withdraw the same with accrued interest and costs, as apportioned by the Tribunal, without filing any formal petition before the Tribunal. The appellants /claimants are directed to pay Court fee for the enhanced amount within a period of four weeks from the date of receipt of a copy of this judgment. No costs.

(b) C.M.A.(MD).No.198 of 2013 is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Additional District Judge,
Fast Track Court No.II,
District Claims Tribunal,
Tirunelveli.



Copy to

The Section Officer, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Prabhakaran, Advocate Sr.No.62290
+1cc to Mr.T.Selvakumaran, Advocate Sr.No.62405

GCG

VB/SKN/RSK/SAR4/03.08.2018/4P/6C

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