



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.509 of 2013

1.Jebaraj Isaac

2. Annamani

... Appellants/Petitioners

Vs.

State Express Transport Corporation Ltd.,
through its Managing Director,
Pallavan Salai,
Chennai.

... Respondent/ Respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in MCOP No.751 of 2009 on the file of Motor Accident Claims Tribunal (II Additional District Court), Tirunelveli, dated 26.10.2010.

For Appellants : Mr.T.Selvakumaran

For Respondent : Mr.P.Prabhakaran

JUDGMENT

Assailing over the judgment and decree passed by the learned II Additional District Judge, Motor Accident Claims Tribunal, Tirunelveli, in M.C.O.P.No.751 of 2009, dated 26.10.2010, 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 and the appellants/claimants, being dissatisfied with the compensation of Rs.7,17,500/- awarded by the tribunal, is before this Court, seeking enhancement. According to the appellants/claimants, because of the accident in question, they had lost the sole bread winner of their family. However, the tribunal has awarded a meagre sum as compensation and therefore, they pray for enhancement.

4. On a perusal of records, it is seen that the notional income of the deceased has been fixed at Rs.15,000/-. The case of the claimants is that the deceased was studying second year Engineering at the time of accident and the deceased had also



completed computer courses, viz., Java, C++ and the deceased was also having a very good academic record and participated in a number of athletic games and won prizes. Therefore, the tribunal ought to have awarded a sum of Rs.20,000/- per month as loss of income.

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5. It is further submitted that the Hon'ble Supreme Court, in the decision reported in 2014 (1) TN MAC 459 (SC) in the case of Syed Sidiq etc., v. Divisional Manager, United India Insurance Company Ltd., has held that the reasonable monthly income of a labour in an unorganized sector doing his own business would be Rs.6,500/-.

6. In the present case on hand, the deceased was aged about 19 years and was studying Engineering at the time of accident and therefore, this Court is of the view that it would be appropriate to fix the notional income of the deceased as Rs.6,000/- per month, instead of Rs.15,000/- per year. Admittedly, the deceased is a Bachelor and therefore, as per the settled principles of law, deduction towards personal expenses should be 50% instead of 1/3rd by the Tribunal.

7. If the notional income of the deceased is taken as Rs.6,000/- per month, instead of Rs.15,000/- per year, after deducting 50% towards the personal expenses of the deceased and applying multiplier '11', the loss of dependency would be Rs.3,96,000/-. However, in the present appeal, the appellants restricted their claim to Rs.2,00,000/- only and therefore, in my considered opinion, it would be quite reasonable to award a sum of Rs.2,00,000/- in addition to the compensation of Rs.7,17,500/- awarded by the Tribunal. Except the award towards loss of dependency the award under other heads are confirmed. Rate of interest at the rate of 7.5% per annum is sustained.

8. Accordingly, this civil miscellaneous appeal is allowed and

- the compensation awarded by the tribunal is enhanced and the total award amount is fixed at Rs.9,17,500/- [Rs.7,17,500/- awarded by the tribunal + Rs.2,00,000/- enhanced by this Court towards loss of dependency].
- The respondent is directed to deposit the sum of Rs.9,17,500/- [Rupees Nine Lakh Seventeen Thousand and Five Hundred only] towards compensation with interest @ 7.5% and costs, less the sum already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment.

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- On such deposit, the appellants/claimants are permitted to withdraw their shares with proportionate accrued interests



and costs in the ratio fixed by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

● There shall be no order as to costs.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The II Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

COPY TO:

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

+1cc to M/S.T.Selvakumaran, Advocate SR.No. 63714
+1cc to M/S.P.Prabhakaran, Advocate SR.No. 63156

C.M.A (MD) .No.509 of 2013
24.04.2018

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JM/JC/SAR 2/01.06.2018/3P/6C