

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2821 of 2011

and

M.P.No.1 of 2011

1.Santhi

2.Arumugam

3.Thenmozhi

.. Appellants

Vs.

1.The Managing Director,

Tamil Nadu State Transport Corporation,

Villupuram Division, Rangapuram, Vellore

2.The New India Assurance Company Limited,

Represented by its Divisional Manager,

C.S.I.Complex, Vellore

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 23.12.2010 and made in M.C.O.P.No.755 of 2007 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Vellore.

For Appellants

: Mr.C.Prabakaran

For R1

:Mr.K.J.Sivakumar

For R2

:Mr.J.Chandran

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order and Decree dated 23.12.2010 made in M.C.O.P.No.755 of 2007 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Vellore. The claimants are the appellants herein.

2. On 14.05.2004, at about 9.45 a.m., while the victim, namely, Srinivasan, was riding his bike, bearing Registration No.TN-32-J-4718, on the extreme left side of the C.C.Road, Adukumparai, the driver of the bus belonging to the first respondent-Transport Corporation drove it rashly and negligently and dashed against the deceased. Due to the accident, the said Srinivasan sustained injuries all over the

body and died on the spot. During his lifetime, he was hale and healthy and earned Rs.19,000/- per month, by working as a Sales Officer in Pepsio India Holding Private Limited. The first respondent is the Managing Director of the offending bus and the second respondent is the insurer of the two wheeler, which the deceased rode during the time of accident.

3. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.12,63,000/- with interest at 7.5% per annum.

4. Heard both sides and perused the materials available on record.

5. The learned counsel for the appellants/petitioners would submit that the age of the deceased at the time of accident was 25 years and as per the decision of the Constitution Bench of the Honourable Supreme Court of India in National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 601, the age of the parents should not be the criteria and only the age of the victim should be taken following the decision of the Hon'ble Supreme Court reported in 2009 (2) TN MAC 1 SC [Sarala Verma and Others Vs. Delhi Transport Corporation and another] and submitted that the multiplier should be '18' instead of '13' fixed by the Motor Accidents Claims Tribunal based upon the decision prevailing at that time.

6. It is seen from Ex.P9-Salary Certificate that the deceased was earning a sum of Rs.2,27,000/- per annum and the same was marked through P.W.3-Lokesh Kumar, the Executive Officer of the Company in which the deceased was working at the time of accident. Thus, this Court finds that for the award under the head "loss of income", the Salary Certificate has been produced under Exhibit P9, which indicates the actual salary of the deceased at the time of the accident being Rs.2,27,000/-per annum and the Tribunal fixed the permanent income of the deceased as Rs.1,28,765/- and the same is taken as the income of the deceased per annum. Since the deceased person died at the age of 25 years, being a salaried class, 50% of future prospects has to be added and therefore, it is calculated as Rs.1,93,000/-, ie., Rs.1,28,765/- (+) 50% (Rs.1,28,765/-) = Rs.1,28,765/- (+) Rs.64,387/- = Rs.1,93,152 rounded off to Rs.1,93,000/-.

7. Since the deceased was a bachelor, after deduction of 50% towards 'personal expenses', "Loss of Contribution to the family" will come to Rs.96,000/- and applying multiplier of '18', "Loss of Income" is arrived at Rs.17,48,000/- and hence, the compensation under the head "loss of income" has been revised from Rs.12,54,500/- to Rs.17,48,000/-.

8. Furthermore, the petitioners are the parents and sister of the deceased and accordingly for loss of love and

affection, Rs.10,000/- has been granted to each one of them, totalling to Rs.30,000/-. With regard to funeral expenses, the amount awarded by the Tribunal is enhanced from Rs.5,000/- to Rs.15,000/- and for "loss of estate", a sum of Rs.15,000/- is awarded. Thus, in toto, the compensation awarded is hereby tabulated:

Heads under which the amount is awarded	Amount awarded by the Tribunal	Amount awarded by this Court
Loss of Income	Rs. 12,54,500/-	Rs. 17,48,000/-
Love and Affection	---	Rs. 30,000/-
Transport	Rs. 3,500/-	Rs. 3,500/-
Funeral Expenses	Rs. 5,000/-	Rs. 15,000/-
Loss of Estate	----	Rs. 15,000/-
Total	Rs. 12,63,000/-	Rs. 18,11,500

9. The award amount granted by the Motor Accidents Claims Tribunal, Vellore, to the tune of Rs.12,63,000/- is enhanced as above.

10. In short, the enhanced amount of compensation is arrived at Rs.5,48,500/- and the respondent-Transport Corporation is required to deposit the said amount with interest at the rate of 7.5% from the date of petition till the date of payment, within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the claimants/appellants are entitled to withdraw their respective shares as per the apportionment of the Tribunal.

11. With the above enhancement in the amount awarded by the Tribunal, this Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
Principal District Judge, Vellore.

COPY TO

The Section Officer,
V.R. Section, High Court,
Madras. (2 copies)

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No. 9678
+1cc to Mr.C.Prabakaran, Advocate, S.R.No. 9667
+1cc to Mr.J.Chandran, Advocate, S.R.No. 9811

C.M.A.No.2821 of 2011

KS (CO)
GN (24/04/2019)