

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.01.2019
CORAM:
THE HONOURABLE MRS. JUSTICE R. HEMALATHA
C.M.A.No.3543 of 2011

- 1.Meenakshi
- 2.Minor Santhosh
- 3.Minor Vanmazhi
- 4.Nagammal

(Minors 2 and 3 represented by their
next friend mother 1st petitioner)

... Appellants

..Vs..

The Managing Director,
Tamil Nadu State Corporation Ltd.,
Bharathipuram,
Dharmapuri.
... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 29.02.2008, in M.C.O.P.No.791 of 2005, on file of the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellants : Mr.Prasanna
for Mr.M.Sriram

For Respondent : No appearance

JUDGMENT

The appellants are the claimants 1 to 4 in M.C.O.P.No.791 of 2005, on file of the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri. They filed the above claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.12,00,000/- for the death of one Shanmugam, husband of the first claimant, father of second and third claimants and son of the fourth claimant in a road accident that took place on 28.04.2005. According to the appellants/claimants 1 to 4, the deceased Shanmugam was riding his two wheeler TVS 50 bearing Registration No. TN 29/S 7759 on Krishnagiri - Rayakottai main road and at about, 16.30 hours, a speeding bus bearing Registration No. TN 29N 1288 belonging to the Tamil Nadu State Transport Corporation, hit the two wheeler

ridden by the deceased, as a result of which, the deceased Shanmugam died on the spot. The further contention of the appellants/claimants 1 to 4 is that the rash and negligent driving of the driver of the bus bearing Registration No. TN 29N 1288 was the cause of the accident and therefore, Tamil Nadu State Transport Corporation is liable to pay compensation of Rs.12,00,000/- to them.

2. The respondent, Tamil Nadu State Transport Corporation contested the claim petition. After analysing the evidence on record, the tribunal, awarded compensation of Rs.5,21,648/- together with interest at the rate of 7.5% per annum to the appellants/claimants 1 to 4. Not satisfied with the quantum of compensation awarded by the tribunal, the appellants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988 seeking for enhancement of compensation.

3. Mr. Prasanna, learned counsel appearing for the appellant would contend that though the deceased was aged just 35 years on the date of the accident, no amount was added towards his future prospects and that a very meagre amount of Rs.5,000/- and Rs.20,000/- were awarded under the heads funeral expenses and loss of consortium respectively.

4. No appearance for the respondent.

5. A perusal of the records shows that the tribunal fixed the income of the deceased as Rs.3,466/- per month, since the deceased was a driver on the date of the accident. However, there were five persons depending on the income of the deceased, but, the tribunal has deducted 1/3 towards his personal expenses. It is also seen from the orders passed by the tribunal that no amount towards future prospects were added to the income of the deceased, especially, when the deceased was aged 35 years on the date of the accident. As per the decision rendered in National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601, 40% should be added towards future prospects of the deceased. Thus after adding future prospects, a sum of Rs.4,852/- (Rs.3,466/- + Rs.386/- (40% of Rs.3,466/-) = Rs.4,852/-) is taken up for calculating the loss of dependency. Since as already observed, there were five dependents, 1/4 should be deducted towards the personal expenses of the deceased. The age of the deceased is mentioned as 32 years in the claim petition and therefore, the proper multiplier to be adopted in the instant case is 16 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Loss of dependency

= Rs.4,852/- x 16 x 12 x 1/4 deduction

= Rs.9,31,584/- x 1/4 deduction

= Rs.6,98,688/-

6. Apart from the above amount, the appellants are entitled to a sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- towards loss of estate, loss of love and affection and funeral expenses. The compensation awarded to the appellants under different heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of dependency	Rs.6,98,688/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.7,68,688/-

Thus the claimants 1 to 4 in M.C.O.P.No.791 of 2005 are entitled to a sum of Rs.7,68,688/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

7. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The compensation awarded by the tribunal is enhanced from Rs.5,21,648/- to Rs.7,68,688/-.

(iii) The appellants/claimants 1 to 4 are directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the payment of Court fee.

(iv) The respondent, Tamil Nadu State Transport Corporation is directed to deposit the enhanced compensation amount (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 791 of 2005, dated 29.02.2008, on file of the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the respondent, the appellants/claimants 1 to 4 are at liberty to withdraw the same as per the orders passed by the tribunal, after following due process of law.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Additional District Judge,
Krishnagiri.

2.The Managing Director,
Tamil Nadu State Corporation Ltd.,
Bharathipuram,
Dharmapuri.

3. The Section Officer,
V.R. Section, High Court,
Madras.

+lcc to Mr. Mukund R.Pandian, Advocate, S.R.No.6561

C.M.A.No.3543 of 2011

VBA (CO)
GN (25/03/2019)



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