

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2387 of 2013

1.R.Sumathi
2.G.Ravichandran
3.Minor R.Mohanapriya ... Appellants/Petitioners
(Rep. by Mother and Guardian
R.Sumathi)

vs

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No.12, Ramakrishna Road,
Salem - 7. ...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 09.02.2012 in M.C.O.P.No.725 of 2009 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court No.2, Salem.

Appellants : Mr.S.Sathish Rajan
Respondent : Mr.D.Venkatachalam

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.725 of 2009 on the file of the Motor Accident Claims Tribunal / Additional District Judge, Fast Track Court No.2, Salem. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.20,00,000/- for the death of one Niruban Chakravarthy, son of the claimants 1 & 2 and brother of the claimant 3 in a road accident on 29.05.2008.

2. The case of the claimants in nutshell is as follows:

On 29.05.2008, Niruban Chakravarthy was riding a Hero Honda Activa two wheeler along Salem - Omalur Main Road, near Ganesh Mahal and at about 09.45 hours, a speeding Tamil Nadu State Transport Corporation bus bearing Registration No. TN 30 N 0153 hit the two wheeler, as a result whereof, he sustained fatal injuries and died on the spot.

3. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the Tamil Nadu State Transport Corporation Limited was the cause of the accident and therefore, they are liable to pay compensation.

4. The learned Additional District Judge / Motor Accident Claims Tribunal, Fast Track Court No.2, Salem awarded a compensation of Rs.4,30,000/- together with interest at the rate of 7.5% per annum. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.S.Sathish Rajan, learned counsel appearing for the appellants and Mr.D.Venkatachalam, learned counsel appearing for the respondent.

6. In the claim petition, it is contended that the deceased was a barber, earning a sum of Rs.300/- per day. In the absence of income proof, the Tribunal fixed the notional income of the claimant as Rs.3,000/- per month. It is pertinent to point out that the accident took place in the year 2008 and in the facts and circumstances, this Court is of the opinion that fixing a sum of Rs.7,500/- as notional monthly income of the deceased would meet the ends of justice. The Tribunal did not award any amount towards "future prospects" of the deceased, especially, when the deceased was aged 17 years on the date of the accident. As per the decision of the Supreme Court of India 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. Since the deceased died as a bachelor, 50% of the deceased's income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 18 as per the decision rendered in Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Calculation

Notional Income = Rs.7,500/-
40% Future Prospects = Rs.3,000/-
Total = Rs.7,500/- + Rs.3,000/- = Rs.10,500/-
After 1/2 deduction = Rs.5,250/-

Loss of dependency

= Rs.5,250/- x 12 x 18
= Rs.11,34,000/-

7. Apart from the above said amount, the appellants / claimants 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" respectively, as per the decision rendered in National Insurance Co. vs Pranay sethi

and others reported in 2017 (2) TNMAC 601 (SC). The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this court
1.	Loss of dependency	Rs.11,34,000/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.12,04,000/-

8. In the result,

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

(ii) The total compensation awarded by the Tribunal is enhanced from Rs.4,30,000/- to Rs.12,04,000/- which would carry interest at the rate of 7.5% per annum from the date of petition.

(iii) The appellants / claimants are directed to pay court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

Sd/-

Assistant Registrar (CS-I)

//True copy//

Sub Assistant Registrar

mtl
To

The Motor Accidents Claims Tribunal,
The Additional District Judge,
Fast Track Court No.2,
Salem.

Copy To : The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.S.Sathish Rajan, Advocate SR.No.94328
+1cc to Mr.D.Venkatachalam, Advocate SR.No.94379

C.M.A.No.2387 of 2013

GJ (CO)

SMY (13/03/2020)
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