

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.851 of 2011

1.Lakshmi
2.Munusamy
3.Rajammal

...Petitioners/Appellants

vs.

The Managing Director,
K.S.R.T.C. Central Office,
K.H.Road, Santhi Nagar,
Bangalore 27.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 08.08.2005 passed in MCOP.No.54 of 2004 on the file of the Motor Accident Claims Tribunal / the District Court, Thiruvanamalai.

For Appellants : Mr.F.Terry Chellaraja

For Respondent : No appearance

J U D G M E N T

The appellants are the claimants in MCOP.No.54 of 2004, on the file of the Motor Accident Claims Tribunal / District Court, Thiruvanamalai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.10,00,000/- for the death of one Gandhi, husband of the first claimant and son of the claimants 2 and 3 in a road accident on 25.12.2003.

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

On 25.12.2003, the deceased Gandhi was a pillion rider in a TVS 50 motor cycle on Thiruvannamalai - Tindivanam road and at about 02.15 pm, when he was nearing Sirukotha Temple in Somasipadi, a speeding Karnataka State Road Transport Corporation bus bearing Registration No. KA 01 F 6810, hit the motorcycle, as a result of which, the deceased Gandhi sustained fatal injuries and died on the spot. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the Karnataka State Road Transport Corporation was the cause of the accident and therefore, they are liable to pay compensation.

3. The Karnataka State Road Transport Corporation contested the claim petition and the learned District Judge, Thiruvannamalai while awarding compensation of Rs.2,95,000/- together with interest at the rate of 7.5% per annum to the claimants 1 and 2 also held that the third claimant, sister of the deceased cannot claim compensation, as she is a class-II heir. 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.

4. Heard Mr.F.Terry Chellaraja, learned counsel appearing for the appellants. No appearance on behalf of the respondent.

5. In the instant case, the deceased Gandhi was aged 40 years on the date of the accident. The contention of the claimants is that the deceased was an electrician, earning a sum of Rs.10,000/- per month. Since no evidence was adduced to substantiate the income of the deceased, the Tribunal fixed the notional income as Rs.27,000/- per annum and adopted multiplier '16' after deducting 1/3rd towards the personal expenses of the deceased. Since the accident took place in the year 2003 and the deceased was an electrician, a sum of Rs.4,500/- is fixed as notional monthly income of the deceased. The Tribunal did not award any amount towards "future prospects" of the deceased. As per the decision laid down in National Insurance Co. vs Pranay Sethi and others reported in 2017 (2) TNMAC 601 (SC), 25% should be added towards the future prospects of the deceased, especially, when the deceased was aged 40 years on the date of the accident and 1/3rd of the deceased's income is deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 14 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. The "loss of dependency" is calculated as follows:

Calculation

Notional Income = Rs.4,500/-
25% Future Prospects = Rs.1,125/-
Total = Rs.4,500/- + Rs.1,125/- = Rs.5,625/-
After 1/3 deduction = Rs.3,750/-

Loss of dependency

= Rs.3,750/- x 12 x 14
= Rs.6,30,000/-

6. Apart from the above said amount, the 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 of the Supreme Court of India 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.6,30,000/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.7,00,000/-

Thus the compensation awarded by the Tribunal is enhanced from Rs.2,95,000/- to Rs.7,00,000/- which would carry interest at the rate of 7.5% per annum.

7. In the result,

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

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.2,95,000/- to Rs.7,00,000/-.

(iii) The claimants 1 and 2 are directed to pay the 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.

(iv) The respondent / Karnataka State Road Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.7,00,000/- (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 MCOP.No.54 of 2004 on the file of the Motor Accident Claims Tribunal / District Judge, Thiruvannamalai within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the claimants 1 and 2 are at liberty to withdraw the same, as per the orders passed by the Tribunal, after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

-s/d-

Assistant Registrar

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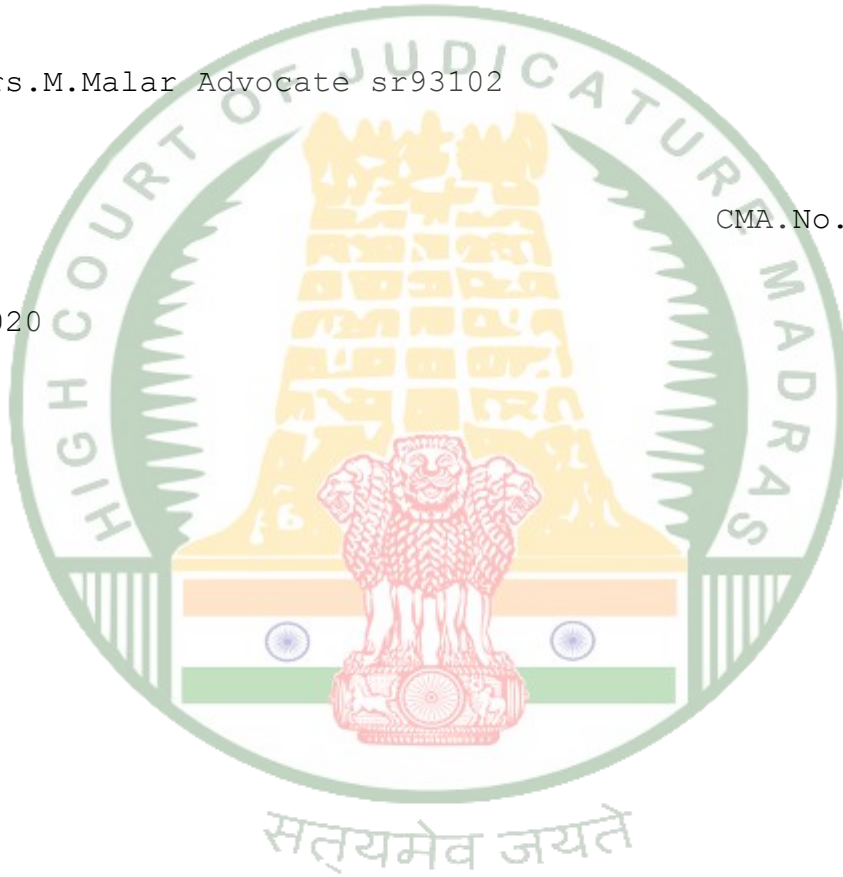
1.The Motor Accidents Claims Tribunal,
The District Judge,
Thiruvannamalai.

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The Section Officer
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+ cc to Mrs.M.Malar Advocate sr93102

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