

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.216 of 2016

- 1.M.Kanchana
- 2.Minor M.Thenmozhi
- 3.Minor M.Sharmila
- 4.A.Samiathal

(Minor appellants 2 and 3
rep.by their mother M.Kanchana,
the first appellant herein).

...Appellants/Petitioners/Claimants

Vs

- 1.M.Paulraj

- 2.The Manager,
TNSTC

Having its registered Office at
Chennimalai Road,
Erode Taluk & District.

... Respondents/Respondents

Appeal under Section 173 of the Motor Vehicles Act against
the judgment and decree dated 28.07.2015 made in MCOP No.227 of
2013 on the file of the Sub-Judge, Motor Accident Claims
Tribunal, Perundurai.

For Appellants : Mr.S.Kaithamalai Kumaran

For R2 : Mr.K.J.Siva Kumar

For R1 : No Appearance

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JUDGMENT

This appeal is preferred by the appellants/claimants
against the award of a sum of Rs.4,94,000/- towards compensation
due to the death of the husband of the first respondent, in a
motor vehicle accident.

2. The case in brief, is as follows:

On the fateful day, i.e. on 27.06.2013, at about 19.30
hours, the deceased Manimaran, was proceeding to hotel in his

bicycle to purchase food. While he was nearing Vinayagar temple on the Perundurai - Erode Road, the bus bearing Reg.No.TN-33-N-2896 belonging to the second respondent Transport Corporation, came in a rash and negligent manner and dashed against bicycle which the deceased was riding. Due to the said impact, the deceased was thrown away in the middle of the road and sustained grievous injuries. The deceased was taken to the KMCH Hospital and subsequently transferred to the Government Hospital, Erode, but he succumbed to the injuries on the same day in the hospital. The legal heirs of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.20,00,000/- as total compensation. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.4,94,000/- with interest at the rate of 7.5% per annum from the date of petition.

3. Being not satisfied with the quantum of the compensation awarded by the Tribunal, the appellants-claimants have filed the present Civil Miscellaneous Appeal for enhancement of compensation.

4. The learned counsel appearing for the appellants/claimants has contended that the deceased was working as a loadman and earning a sum of Rs.15,000/- per month, but the Tribunal has erroneously fixed a low sum of Rs.3,000/- as monthly salary of the deceased. He also submitted that the amounts awarded by the Tribunal under different heads are also meagre and prayed for enhancement of compensation.

5. The learned counsel for the second respondent Transport Corporation has submitted that the Tribunal has correctly considered the materials and evidence and has correctly awarded the compensation which is just, fair and reasonable and hence the same does not require any interference in the hands of this Court.

6. Heard the learned counsel for the appellants / claimants as well as the learned counsel for the second respondent Transport Corporation and perused the materials available on record carefully and meticulously.

7. On consideration of the materials and evidence available on record, the Tribunal has awarded a sum of Rs.4,32,000/- towards loss of dependency. The said sum has been arrived at by taking the monthly income of the deceased at Rs.3,000/-, deducting 1/4th of the amount towards personal expenses of the deceased and adopting the multiplier of 16, relying upon Ex.P4- Post Mortem Certificate. As per Ex.P7/Identity card, the deceased was working as a loadman in a Government Depot. In the claim petition, the claimants have claimed that the deceased was earning a sum of Rs.15,000/- per month. Further, he was aged 33

at the time of accident. Taking note of all these things, it would be appropriate to fix the monthly income of the deceased at Rs.4,500/- and also to add 40% of his income towards his future prospects, to arrive at the total monthly income, as he was aged only 33 years at the time of accident. If that is done, the loss of contribution of the deceased to the family, works out to Rs.9,07,200/- (Rs.6,300/- x 12 x 16 x $\frac{3}{4}$) after deducting $\frac{1}{4}$ th of the amount towards his personal and living expenses as per the dictum laid down by the Hon'ble Apex Court in Sarla Verma's case since the deceased was a bachelor. Thus, the loss of dependency awarded by the Tribunal stands modified to Rs.9,07,200/-. The amounts awarded by the Tribunal, viz., Rs.10,000/- towards funeral expenses, Rs.40,000/- towards loss of love and affection, Rs.10,000/- towards loss of consortium and Rs.2,000/- towards transportation charges are very reasonable and hence the same are confirmed. The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Loss of dependency	9,07,200/-
Funeral expenses	10,000/-
Loss of love and affection	40,000/-
Loss of consortium	10,000/-
Transportation charges	2,000/-
TOTAL	9,69,200/-

Thus, the claimants are entitled to the modified compensation of Rs.9,69,200/- with interest at the rate of 7.5% per annum from the date of petition. It is made clear that the claimants have to pay the appropriate Court fee in order to receive the awarded amount.

8.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs. The second respondent Transport Corporation is directed to deposit the modified compensation as ordered above, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. Hence, on such deposit, the major claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal. The share of the second and the third appellants - minors shall be deposited in a fixed deposit in any one of the Nationalised Banks, till the minors attain majority. The interest accrued in the bank deposit shall be withdrawn by the first appellant-mother of the minors,

once in three months directly from the bank, which shall be utilised for the benefit and welfare of the minors.

Sd/-
Assistant Registrar (CS-VI)

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Sub Assistant Registrar

gbi/km

To

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Perundurai.

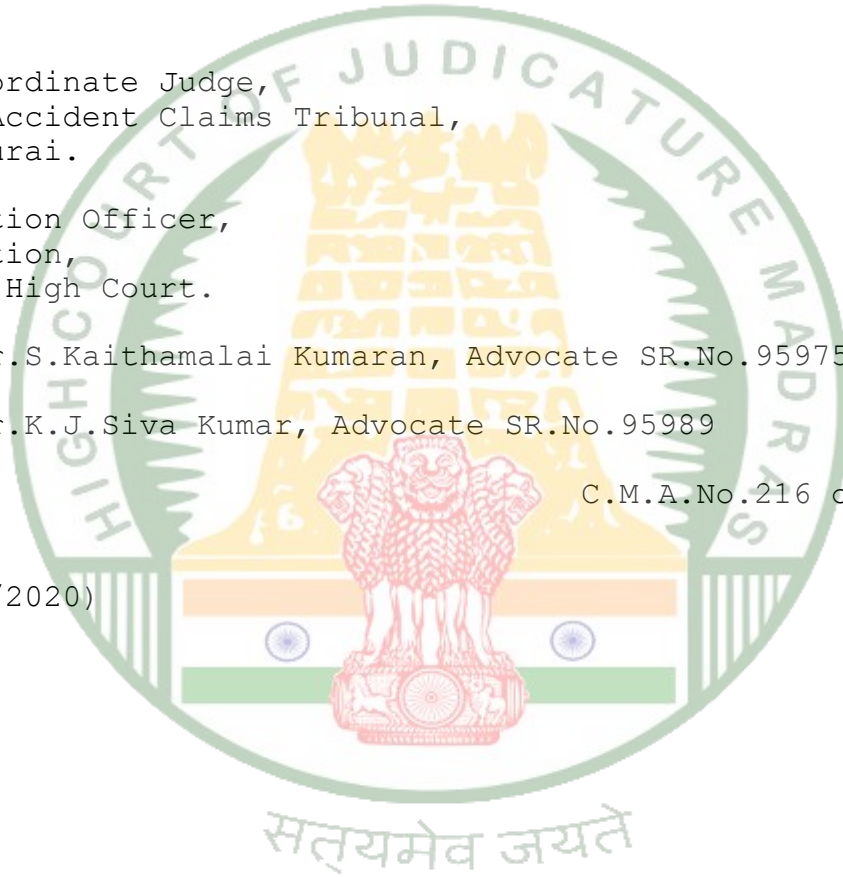
2.The Section Officer,
VR Section,
Madras High Court.

+1cc to Mr.S.Kaithamalai Kumaran, Advocate SR.No.95975

+1cc to Mr.K.J.Siva Kumar, Advocate SR.No.95989

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MP (CO)
GMY (21/07/2020)



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