



and insured with the 2nd respondent which came in the opposite direction. Therefore, the claim petition was filed and on contest, it was found that the accident had occurred because of the rash and negligent driving of the vehicle TATA ACE.

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2.The tribunal determined the monthly income of the deceased at Rs.6,000/- and added 40% towards future prospects and applied multiplier '16' as the age of the deceased was 34 and determined the loss of dependency at Rs.8,64,000/-. Further, various amounts have been awarded under other heads and thus, a sum of Rs.12,79,000/- has been awarded by the tribunal. Aggrieved, over the quantum of compensation, the claimants are before this Court.

3.Heard Mr.Ma.P.Thangavel, learned Counsel appearing for the appellants and Mr.D.Baskaran, learned Counsel appearing for the 2nd respondent/Insurance company.

4.The only question which has to be decided is with regard to the quantum as the Insurance company has not preferred any appeal regarding the finding that the driver of the TATA ACE Vehicle was negligent and so responsible for the accident.

5.Mr.Ma.P.Thangavel, learned Counsel appearing for the appellants would rely upon Ex.P.5, driving licence of the deceased to show that he was earning about Rs.20,000/- per month. However, Mr.D.Baskaran, learned Counsel appearing for the 2nd respondent would rely upon the very same driving licence to show that he was only a driver and the licence has been given only to drive transport vehicles and there is no endorsement in the licence to drive heavy transport vehicles especially the bus. Therefore, it is clear that the contention of Mr.D.Baskaran has to be accepted that the deceased was not authorised to drive the passenger vehicle as there is no endorsement in the licence as HTV (Heavy Transport Vehicles).

6.Further, the monthly earning determined by the tribunal at Rs.6,000/-, however, is very low considering the year of the accident, ie., 2014. It is very difficult to get a driver at the rate of Rs.6,000/- per month. It is seen from the Judgment of Hon'ble Supreme Court in "Kala Devi & others Vs.Bhagwan Das Chauhan & others" reported in "2014 (2) TN MAC 680 (SC)" wherein, the Hon'ble Supreme Court has observed that the job of the driver is a skillful job and determined the monthly income at Rs.9,000 for the deceased who worked as driver in the year 2003. Hence, Rs.6,000/- determined by the tribunal is very low and in an endeavor to do complete justice and also taking into account of the money value and spending power, this Court redetermines the monthly income of the deceased at Rs.12,500/-. Considering the age of the deceased, 40% has to be added towards



future prospects. Hence, the monthly income of the deceased would be Rs.12,500/- + 40% = Rs.17,500/-.

7.As per Ex.P.5, the age of the deceased is proved to be 34 years and the appropriate multiplier '16' has been rightly chosen by the tribunal. The size of the family is found to be five and therefore, as per "Sarala Verma's case", 1/4th has been rightly deducted by the tribunal towards personal expenses. Hence, if 1/4th is deducted towards personal expenses, the monthly income would be Rs.12,500 + 40% - 1/4 = Rs.13,125/-. Hence, the loss of income would be Rs.13,125/- x 12 x 16 = Rs.25,20,000/-.

8.The tribunal awarded a sum of Rs.40,000/- towards loss of consortium and Rs.15,000/- each towards loss of estate and funeral expenses and the same are confirmed. However, no amount was awarded towards loss of love and affection to the children as well as to the parents of the deceased. The appellants 2 and 3 are minors aged about 3 years and 5 years at the time of accident who have lost the love and affection of their father throughout their life and therefore, a sum of Rs.1,50,000/- is given to appellants 2 and 3 and a sum of Rs.25,000/- is awarded to the parents of the deceased under the said head. The amount given towards loss of love and affection is akin to the amount being given to the wife towards loss of consortium. No amount has been awarded towards transportation and therefore, a sum of Rs.25,000/- is given under this head. Therefore, the sum of Rs.12,79,600/- awarded by the tribunal is modified as follows:

SI.No	Head	Amount (Rs.)
1.	Loss of income	25,20,000/-
2.	Loss of Love and affection	1,75,000/-
3.	Funeral Expenses	15,000/-
4.	Loss of consortium	40,000/-
5.	Loss of estate	15,000/-
6.	Transportation	25,000/-
	Total	27,90,000/-
	Rounded off	28,00,000/-

9.Hence, the total compensation payable in this case is Rs.28,00,000/-. The interest awarded by the Tribunal at the rate of 7.5% per annum is confirmed.



10.The 2nd respondent/Insurance company is directed to deposit the entire award amount before the trial Court along with interest and costs after deducting the amount, if any, already deposited within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the tribunal is directed to transfer the respective shares of the major claimants through RTGS as per the ratio fixed by the Tribunal within a period of one week. As far as the minors' share are concerned, the same shall be deposited in interest bearing fixed deposit in any one of the Nationalized Banks till they attain majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st appellant once in three months.

11. Accordingly, this appeal is partly allowed, by enhancing the award of the Tribunal from Rs.12,79,000/- to Rs.28,00,000/-. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
Principal District Court,
Namakkal.

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

+1cc to Mr.Ma.P.Thangavel, Advocate SR.No.50054

+1cc to Mr.D.Baskaran, Advocate SR.No.50332

C.M.A.No.1882 of 2018

NRL(CO)
GMY(20/09/2019)