



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.1565 of 2014

WEB COPY

1.M.Amsa
2.D.Chinnakulanthai
3.M.Duraisamy

... Appellants/ Petitioners

vs.

The Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Villupuram Division I Ltd., Villupuram.

...Respondent/ Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 13.02.2014 in MCOP.No.427 of 2011, on the file of the Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai.

For Appellants : Ms.Ramya V Rao

For respondent : Mr.K.J.Sivakumar

J U D G M E N T

The appellants are the claimants in MCOP.No.427 of 2011 on the file of the Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.30,00,000/- for the death of one D.Manoharan, husband of the first claimant and son of the claimants 2 and 3 in a road accident on 08.12.2010.

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

On 08.12.2010, the deceased D.Manoharan was a pedestrian on GST Road, Chennai and at about 23.15 hours, a speeding bus bearing Registration No. TN 32 N 3211, belonging to the Tamil Nadu State Transport Corporation hit him, as a result of which, the deceased D.Manoharan sustained fatal injuries and died on the spot.

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



4. The Tamil Nadu State Transport Corporation contested the claim petition and the learned IV Judge / Motor Accident Claims Tribunal, Court of Small Causes, Chennai after analysing the evidence on record, awarded a compensation of Rs.11,78,000/- together with interest at the rate of 7.5% per annum to the claimants. 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 Ms.Ramya V Rao, learned counsel appearing for the appellants / claimants and Mr.K.J.Sivakumar, learned counsel appearing for the respondent / Tamil Nadu State Transport Corporation.

6. In the instant case, the deceased was working as a staff in G.G.Hospital, Nungambakkam, Chennai. The pay slip and the bank statement (Ex.P6 and Ex.P7) show that the deceased was earning a sum of Rs.8,589/- per month. Therefore, the same is taken up for calculating loss of dependency. The deceased was aged 32 years on the date of the accident and 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), 40% should be added towards his future prospects. As there are three dependents, 1/3rd of his income should be deducted towards his personal expenses. 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.

Calculation

Monthly Income = Rs.8,589/-
40% Future Prospects = Rs.3,436/-
Total = Rs.8,589/- + Rs.3,436/- = Rs.12,025/-
After 1/3rd deduction = Rs.8,017/-

Loss of dependency

= Rs.8,017/- x 12 x 16
= Rs.15,39,264/-

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 consortium" 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:



WEB COPY

S.No.	Head	Amount granted by this court
1.	Loss of dependency	Rs.15,39,264/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of consortium	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.16,09,264/-

8. Thus, the compensation awarded by the Tribunal is enhanced from Rs.11,78,000/- to Rs.16,09,264/- which would carry interest at the rate of 7.5% per annum.

9. In the result,

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

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.11,78,000/- to Rs.16,09,264/-.

(iii) The appellants / claimants 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 / Tamil Nadu State Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.16,09,264/- (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.427 of 2011 on the file of the Motor Accident Claims Tribunal / IV Judge, Court of Small Causes, Chennai within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellants / claimants 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.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mbi

To

1.The Motor Accidents Claims Tribunal,
The IV Judge, Court of Small Causes,



2.The Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Villupuram Division I Ltd., Villupuram.

Copy to:

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

+2ccs to Mr.A.N.Viswanatha Rao , Advocate SR.No. 94776

+1cc to Mr.K.J.Sivakumar , Advocate SR.No. 94708

C.M.A.No.1565 of 2014

A.SK(15/07/2020)