



WEB COPY

C.M.A(MD).No.207 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A(MD).No.207 of 2019

and

C.M.P.(MD).No.2806 of 2019

and

Cros.Obj.(MD).No.16 of 2019

C.M.A(MD).No.207 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation,
Maruthupathy Nagar,
Karaikudi,
Sivagangai District.

.. Appellant/Respondent

Vs.

1.Ramakrishnan
2.Meenal

.. Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award, dated 01.11.2018, passed in M.C.O.P.No.204 of 2017, passed by the Motor Accident Claims Tribunal/District Court, Sivagangai.

For Petitioner : Mr.P.Prabhakaran
For Respondents : Mr.K.Kumaravel

Cros.Obj.(MD).No.16 of 2019

1.Ramakrishnan
2.Meenal

.. Cross Appellants/Respondents

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Maruthupathy Nagar,
Karaikudi,
Sivagangai District.

.. Respondent/Appellant

Prayer: Cross Objection filed under Order 41 Rule 22 of Motor Vehicle Act, 1988, in C.M.A.(MD).No.207 of 2019 on the file of this Court filed against the award, dated 01.11.2018, passed in M.C.O.P.No.204 of 2017, passed by the Motor Accident Claims Tribunal/District Court, Sivagangai.

For Petitioner : Mr.K.Kumaravel
For Respondents : Mr.P.Prabhakaran



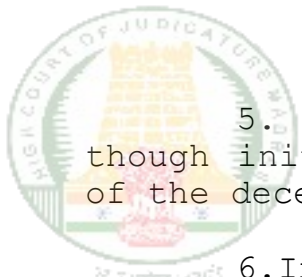
COMMON JUDGMENT

Questioning the award, dated 01.11.2018, passed by the learned District Judge/Motor Accident Claims Tribunal, Sivagangai, in M.C.O.P.No.204 of 2017, the Transport Corporation has filed the Civil Miscellaneous Appeal and the respondents/claimants have filed Cross Objection.

2.On 18.05.2017, at about 9.00 p.m., when the deceased by name Alaguchamy was riding his bike on Thirupathur-Singampuneri Road, the bus belonging to Tamil Nadu Transport Corporation, which was driven by its driver in rash and negligent manner, hit against the bike. In the said accident, the deceased died on the spot. The parents of the deceased Alaguchamy, filed the claim petition claiming compensation of Rs.40,00,000/- (Rupees Forty Lakhs only) before the tribunal. The Tribunal after analysing the evidence, has awarded Rs.19,18,000/- together with interest at the rate of 7.5% per annum.

3.Though the appellant/Transport Corporation preferred the present Civil Miscellaneous Appeal, challenging both liabilities as well as the quantum of compensation awarded by the Tribunal, at the time of argument, he restricted his prayer with regard to the quantum of compensation awarded by the Tribunal. The respondents/claimants have filed Cross Objection in Cross.Obj.(MD). No.16 of 2019, for enhancement of quantum of compensation awarded by the Tribunal.

4.The learned counsel for the Transport Corporation would submit that the Tribunal has passed a sum of Rs.20,000/- as notional income of the deceased. He would contend that the deceased was working at Singapore for a period of two years, and thereafter, he left Singapore and settled down in India. In India, he was working as Welder. In the present case, the accident occurred in the year, 2017. Therefore, the learned counsel contended that for a welder, it is not possible in India to earn a sum of Rs.20,000/- in the year 2017. Therefore, the notional income fixed by the Tribunal is on the higher side and the same requires re-consideration based on the income earned by the deceased in India. In Singapore, he would have earned about 1500 Dollors. But the same amount cannot be taken into consideration, as the earnings of the deceased was only for two years. That apart, the cost of living at Singapore is entirely different compared to the cost of living in India. Therefore, it is not possible for the deceased to save any amount and send it to his parents in India. In this regard, no documentary evidence was produced by the claimants. Therefore, he suggested that a sum of Rs.10,000/- may be fixed as notional income of the deceased and based on the same, to determine compensation accordingly.



5. On the other hand, the learned counsel for the claimants though initially opposed for fixing Rs.10,000/- as notional income of the deceased, subsequently, agreed for such fixation.

6. In view of the submission of both the counsels, this Court is inclined to fix the notional income of the deceased as Rs.10,000/- instead of Rs.20,000/- as fixed by the Court below.

7. As per the decision of the Hon'ble Supreme Court, in the case of **National Insurance Company Limited vs. Pranay Sethi and others** reported in (2017) 16 SCC 680, the Tribunal ought to have added 40% of income as future prospects. If 40% of the income is added in the monthly income of the deceased, the monthly income comes to Rs.14,000/- ($10,000 \times 40/100 = 4,000 + 10,000 = 14,000$).

8. In the present case, as rightly pointed out by the appellant, the Court below wrongly applied the multiplier 11. As per the postmortem report Ex.P3, the deceased was aged about 27 years at the time of accident. As per the decision of the Honourable Supreme Court in the case of **Sarala Verma and others Vs. Delhi Transport Corporation and another** reported in 2009 (2) TNMAC (1) SC, the correct multiplier is multiplier No.17, as per the age of the deceased. Therefore, the multiplier applied by the Tribunal 11 is modified as 17 for the purpose of the determination of compensation. If the multiplier 17 is applied, the loss of income comes to Rs.28,56,000/- ($14,000 \times 12 \times 17 = 28,56,000$).

9. In the present case the deceased was a bachelor and therefore 50% of the income to be deducted towards personal expenses. If 50% of the amount is deducted the total loss of income comes to Rs.14,28,000/-. Accordingly, the award passed by the Tribunal under the head of loss of income is reduced from Rs.18,48,000/- to Rs.14,28,000/-.

10. It is seen that the Court below has awarded a sum of Rs.20,000/- towards love and affection for each claimant. This Court is of the view that the said amount is very low, hence, it is increased to Rs.30,000/- for each claimant i.e., Rs.60,000/- towards Loss of Love and affection. It is seen that the Court below awarded a sum of Rs.25,000/- towards funeral expenses. As per the Judgement of the Apex court in **Pranay Sethi Case** (cited supra), Rs.25,000/- awarded by the Tribunal towards funeral expenses is reduced to Rs.15,000/-. The Tribunal has not awarded any amount towards loss of Estate. Hence, this Court awards a sum of Rs.15,000/- towards loss of estate. The court below awarded a sum of Rs.5,000/- towards Transport. This Court is of the view that the said amount is very low, hence, it is increased to Rs.10,000/-.

11. Thus, the compensation awarded by the Tribunal stands revised in the manner stated below.



Heads of Award	In M.C.O.P. Rs.	In C.M.A. Rs.
1.Loss of Income	18,48,000	14,28,000
2.Love and Affection	40,000	60,000
3.Funeral Expenses	25,000	15,000
4.Loss of Estate	--	15,000
5.Transportation	5,000	10,000
Total	19,18,000	15,28,000

12.In view of the above, the total compensation awarded by the Tribunal is reduced from Rs.19,18,000/- to Rs.15,28,000/-.

13.The learned counsel appearing for the appellant contended that already 50% of the award amount passed by the Tribunal has been deposited along with the interest. Therefore, this Court directed the appellant to deposit the balance amount along with the cost as awarded by the Court below along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, to the credit of M.C.O.P.No.204 of 2017, on the file of the Motor Accidents Claims Tribunal / District Court, Sivagangai, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount to the respondents / claimants directly to the Bank account through RTGS within a period of three weeks, thereafter.

14.This court further directed the court below to transfer the award amount which has already been deposited by the Transport Corporation at the ratio of 50% to each of the claimant along with 7.5% interest directly to the Bank account through RTGS, within a period of three weeks from the date of receipt of the order.

15.Accordingly, this civil miscellaneous petition is partly allowed and the Cross Objection filed by the claimants is dismissed. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

1.The District Judge/Motor Accident Claims Tribunal, Sivagangai.

2.The Section Officer, (2 copies)

V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.P.PRABHAKARAN, Advocate (SR-95675[F] dated 01/11/2019)

+1 CC to Mr.K.KUMARAVEL, Advocate (SR-96203[F] dated 05/11/2019)

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VB(17.02.2020) 5P 6C