



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2019

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A. (MD) No.806 of 2019

and

C.M.P. (MD) .No.10455 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation,
(Tirunelveli Division),
Nagercoil.

... Appellant

Vs.

1. Paulthurai
2. Chellathai

... Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree made in M.C.O.P.No.323 of 2013, dated 28.02.2019 on the file of the Motor Accident Claims Tribunal, Sub Court, Vallioor.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.M.Lakshmi Mahendra

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the Transport Corporation challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sub Court, Vallioor in M.C.O.P.No.323 of 2013, dated 28.02.2019.

2. The claim petition was filed by the parents of the deceased Raju, who died in a motor accident, on 16.11.2013. On the fateful day, the deceased was riding a motorcycle bearing Registration No.TN 69 K 6732 from Kanyakumari District Limit to Tirunelveli, at that time, the bus belonging to the appellant / State Transport Corporation was driven by its driver in a rash and negligent manner and hit against the motorcycle. In that process, the deceased Raju died on the spot. Hence, his parents filed a claim petition seeking compensation of Rs.3,93,500/-, on the ground that the driver of the bus was responsible for the accident.

3. The Tribunal has awarded a sum of Rs.5,00,000/- lump sum compensation for the deceased. The Tribunal has taken the amended Section 163(A) of the Motor Vehicles Act, wherein the Central Government amended the provision with effect from 01.01.2019, in case of any death on the date of accident, under



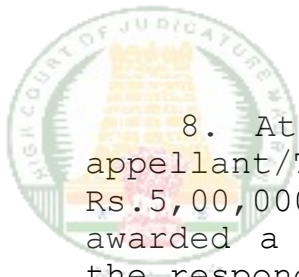
Section 163(A) of the Motor Vehicles Act, without going into the merits of the case, the Tribunal has been empowered to award compensation of Rs.5,00,000/-.

4. It is the contention of the learned counsel for the appellant/Transport Corporation that in the present case, the accident had occurred on 16.11.2013. The amended provision came into effect only from 01.01.2019. Therefore, awarding a sum of Rs.5,00,000/- as lump sum compensation for the accident occurred in the year 2013 do not apply. The learned counsel for the appellant further contended that the total compensation claimed by the claimant is Rs.3,93,500/- alone and without considering all these aspects, the Tribunal has awarded a sum of Rs.5,00,000/- as lump sum compensation. Challenging the quantum of compensation awarded by the Tribunal, the present appeal has been filed.

5. The learned counsel for the respondents/claimants contended that the deceased was drawing a sum of Rs.3,000/- per month as stated in the claim petition and even if Rs.3,000/- is taken into consideration for loss of income, by applying proper multiplier, after deducting 50% towards personal expenses and providing 40% towards future prospects for the age group of '18', the compensation would be Rs.4,53,600/- ($\text{Rs.3,000/-} - \text{Rs.1,500/-} + 40\% \times 12 \times 18$). As per the decision in **National Insurance Company Limited vs. Pranay Sethi and others** reported in (2017) 16 SCC 680, the claimants would be entitled for Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses and Rs.10,000/- towards transportation and apart from that, Rs.25,000/- each of the claimants towards love and affection. In total, the claimants are entitled for Rs.5,43,600/-. However, the Tribunal has awarded a sum of Rs.5,00,000/-.

6. Heard the learned counsel for the appellant and the respondent and perused the materials available on record.

7. In the present case, though the claim was made for a sum of Rs.3,93,500/-, the Tribunal has awarded a sum of Rs.5,00,000/-, based on the Notification issued by the Central Government, which came into effect on 01.01.2019. However, the said Notification will apply only to the accident occurred on or after 01.01.2019. But, in the present case, the accident had occurred on 16.11.2013. Therefore, the said Notification will not be applied to the present case. As contended by the learned counsel for the respondents/claimants, even if Rs.3,000/- is taken into consideration for loss of income, by adding 40% towards future prospects and by applying multiplier '18' for the age group of '18' as held by the Hon'ble Supreme Court in **Smt. Sarla Varma and other vs. Delhi Transport Corporation and another** reported in 2009 (2) **TNMAC 1 (SC)**, and by adding Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses, Rs.10,000/- towards transportation, Rs.25,000/- each of the claimants towards love and affection, the total compensation comes to Rs.5,43,600/-.



8. At this juncture, the learned counsel appearing for the appellant/Transport Corporation fairly conceded that a sum of Rs.5,00,000/- may be confirmed, since already the Tribunal has awarded a sum of Rs.5,00,000/-. The learned counsel appearing for the respondents/claimants also agreed for Rs.5,00,000/-.

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9. Considering the submission made by the learned counsel for the appellant/Transport Corporation as well as the learned counsel for the respondents, this Court awards a sum of Rs.5,00,000/-.

10. With the above modification, the Civil Miscellaneous Appeal is dismissed.

11. In view of the dismissal of the appeal, the appellant/Transport Corporation is directed to deposit the entire award amount along 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 the claim petition, within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the Tribunal is directed to transfer the said amount directly to the Personal Savings Account Number of the claimants by way of RTGS/NEFT system, after getting their Account Details, within a period of three weeks thereafter. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

The Motor Accident Claims Tribunal,
Sub Court,
Vallioor.

+1 CC to Mr.P. PRABHAKARAN, Advocate (SR-97451[F]dated 12/11/2019)

+1 CC to M/s.M.LAXMI MAHENDRAA, Advocate (SR-97830[F]dated 13/11/2019)

C.M.A. (MD) No.806 of 2019
12.11.2019

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