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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.1499 OF 2006

(THROUGH VIDEO CONFERENCING)

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division II, Erode.

... Appellant

Vs.

1. Pushpa
2. Vanitha
3. Minor Maheswaran
Minor represented by Mother &
Guardian R1
4. Rajammal
5. Radhakrishnamoorthy

... Respondents

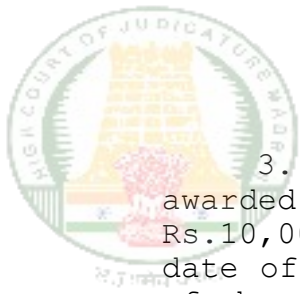
Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 29.07.2004 made in M.A.C.T.O.P.No.839 of 2002, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Erode.

For Appellant :	Mr.Arun for Mr.A.Sundaravadanam
For Respondents:	
For R1 to R3 :	Mr.Parthi Kannan for Mr.S.Kaithamalai Kumaran
:	R4-died
:	R5-Given up

JUDGMENT

With consent of both the learned counsel for the appellant and 1st to 3rd respondents, this Civil Miscellaneous Appeal is taken up for final disposal.

2. The State Transport Corporation is the appellant herein and is aggrieved by the impugned Judgment and Decree dated 29.07.2004 passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Erode in M.A.C.T.O.P.No.839 of 2002.



3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.4,60,000/- as against the total claim of Rs.10,00,000/-, together with interest at 9% per annum from the date of filing of the claim petition (03.06.2002), till the date of deposit (29.07.2004) along with cost, to the 1st respondent/claimant.

4. I have heard the learned counsel for the appellant and 1st to 3rd respondents.

5. The facts are not in dispute. The accident took place on 11.04.2002, when the bus belonging to the appellant/State Transport Corporation collided with a moped, driven by the deceased, who sustained greivous injuries, and despite taking treatment as an inpatient, he died on 27.04.2002. At the time of accident, the deceased/Easwaran was aged about 45 years.

6. Though before the Tribunal, documents were produced to substantiate the income of the deceased as Rs.7,500/- per month, the Tribunal has considered the notional income of Rs.3,000/- and has awarded the aforesaid compensation of Rs.4,60,000/-.

7. Assailing the impugned order of the Tribunal, the learned counsel for the appellant/State Transport Corporation submits that the Tribunal ought to have adopted the correct multiplier of 14 and had committed an error in applying the multiplier of 15 for awarding the aforesaid compensation. He further submits that the Tribunal ought not to have awarded interest at 9%.

8. On behalf of the 1st to 3rd respondents, Mr.Parthi kannan, learned counsel for Mr.S.Kaithamalai Kumaran, learned counsel for 1st to 3rd respondents submits that the appeal filed by the appellant/State Transport Corporation is without any merits. On the contrary, he submits that the Tribunal has applied the correct multiplier of 15 as per the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12.

9. The claimants/respondents are entitled for compensation towards future prospects as per the decision of the Hon'ble Supreme Court in National Insurance Co. Ltd. Vs. Pranay Sethi and Others, (2017) 16 SCC 680 and amount towards loss of consortium for the 1st respondent/claimant, loss of parental consortium for the 2nd and 3rd respondents/claimants, loss of love & affection for the 4th respondent/claimant as per the recent decision of the Hon'ble Supreme Court in Magma Insurance Company Limited Vs Nanuram @ Chuhruram and others, (2018) 18 SCC 130, requires/warrants no interference. He further submits that the Tribunal ought to have awarded compensation under the



conventional heads which the Tribunal had failed to do so.

10. I have considered the arguments advanced by the learned counsel for the appellant and 1st to 3rd respondents.

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11. The accident is of the year 2002 and therefore the Tribunal has taken the multiplier of 15. At that time, the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12, was not there. Correct multiplier is 14 and not 15 for a person aged 45 years. As was contended by the learned counsel for the 1st to 3rd respondents/1st to 3rd claimants, the respondents/claimants are also entitled for compensation towards future prospects, loss of consortium, loss of parental consortium and loss of love and affection etc.

12. That apart, the Tribunal ought to have awarded compensation under the conventional heads, apart from the amount that has already been awarded on some of these heads.

13. As per the decision of the Hon'ble Supreme Court in Nagappa Vs. Gurudayul Singh, (2003) 2 SCC 274, the Tribunal, High Courts and also the Hon'ble Supreme Court are duty bound to award just compensation to the claimants. Under these circumstances, I requantify the compensation awarded by the Tribunal as follows:-

Monthly income of the deceased = Rs.3000/-
(by considering the age 45 years as
per Pranay Sethi)

Future Prospects = 25% add
Deduction towards personal expenses (1/4th)
Proper Multiplier 14

(i) Loss of dependency = Rs.3000/- +Rs.750/- (Rs.3000/-x25%)
= Rs.3750/-
= Rs.3750/-x12x14x3/4*
= Rs.4,72,500/-

(*1/4th deduction towards personal expenses of the deceased)

(ii) Towards Medical Expenses = Rs.40,000/-

(iii) Loss of Consortium for the 1st respondent = Rs.40,000/-

(iv) Loss of Parental Consortium for the
2nd & 3rd respondents = Rs.40,000/- each
= Rs.40,000x2 = Rs.80,000/-

(v) Loss of Love & Affection for the
4th respondent = Rs.25,000/-



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Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court	Award Confirmed or enhanced or granted or reduced
1.	Loss of Income	Rs.3,60,000/-	----	---
2.	Loss of Dependency	---	Rs.4,72,500/-	Granted
2.	Medical Expenses	Rs.80,000/-	Rs.40,000/-	Reduced
3.	Loss of consortium for the 1 st respondent	Rs.5,000/-	Rs.40,000/-	Enhanced
4.	Loss of parental consortium for the 2 nd & 3 rd respondent	Rs.10,000/- (Rs.5,000/- +Rs.5,000/-)	Rs.80,000/-	Enhanced
5.	Loss of Love & Affection for the 4 th respondent	Rs.5,000/-	Rs.25,000/-	Enhanced
	Total	Rs.4,60,000/-	Rs.6,57,500/-	Enhanced by Rs.1,97,500/-

14. The appellant/State Transport Corporation is therefore directed to deposit the enhanced amount of compensation of Rs.6,57,500/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment. Since there is enhancement of compensation in this appeal, the 1st to 4th respondents/1st to 4th claimants are directed to pay court fee on the enhanced amount of compensation ie., on Rs.1,97,500/- (6,57,500 - 4,60,000) within two weeks from the date of this order.

15. On payment of court fee by the claimant and on such deposit being made by the appellant/State Transport Corporation, the 1st, 2nd & 4th respondents/1st, 2nd & 4th claimants are permitted to withdraw the same in the same proportion together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.



16. If 3rd respondent/3rd claimant has not been attained the age of majority, the Tribunal is directed to deposit his share in any one of the Nationalised Bank under the reinvestment scheme till he attains the age of majority and permit the first respondent/guardian of the minor to withdraw the accrued interest on the share of the 3rd respondent/3rd claimant once in three months directly from the said Bank. On attaining the majority, the 3rd respondent/3rd claimant is permitted to withdraw his share together with interest accrued thereon, by filing suitable application before the Tribunal.

17. This Civil Miscellaneous Appeal is disposed with the above observation and direction. No cost.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

arb

To:

The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Erode.

+1cc to Mr.S.Kaithamalai Kumaran, Advocate, S.R.No.35260
+1cc to M/s.A.Sundaravadhanan, Advocate, S.R.No.35392

C.M.A.No.1499 of 2006

VSB-II (CO)
CS/05/10/2021