

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:17.09.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.675 of 2016

1.Thamilselvi

2.Minor S.Mathiyazhagan
S/o Srinivasan

3.Minor S.Pandiyan
S/o Srinivasan
Minor appellants 2 and 3 are
represented by their natural guardian
1st appellant.

4.Miniammal ..Appellants/Petitioner

/versus/

1.P.Ravikumar

2.Divisional Manager,
The New India Assurance Company Ltd.,
No.106, First Floor,
Big Street,
Tiruvannamalai Town.

3.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division-I,
Tiruvannamalai Region,
Tiruvannamalai.

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act challenging the judgment and decree passed by Motor Accident Claims Tribunal(Chief Judicial Magistrate), Tiruvannamalai dated 22.07.2015 made in M.C.O.P.No.161 of 2013.

For Appellants
For Respondents

:Mr.B.Jawahar
:Mrs.R.Sree Vidhya for R2
Mr.C.S.K.Sathish for R3
No appearance for R1

J U D G M E N T

(The case has been heard through video conference)

The appellants are the claimants before the Tribunal. Not being satisfied with the quantum of compensation awarded by the Tribunal, the present appeal is preferred.

2. In the grounds of appeal, it is contended that the deceased was employed in the State Transport Corporation Limited as a Driver. The Tribunal while computing compensation did not consider the future prospects of the deceased and also failed to compensate adequately to the claimants under the head of loss of consortium.

3.A perusal of the award impugned before this Court reveals that on 18.02.2013, Srinivasan driver of Tamil nadu State Transport Corporation bus while on duty driving the bus bearing Reg.No.TN 32 N 3118 from Vellore new bus stand to Tiruvannamalai near Santhavalas, he stopped the vehicle to alight the passengers. At that time, the private bus bearing Reg.No.TN 23 BB 3661 came rash and negligently and dashed the Tamil Nadu State Transport Corporation bus in which Srinivasan the driver of the Corporation bus got seriously injured and died on the spot. A case was registered against the driver of the private bus. Based on the salary certificate, his age and number of dependency, the Tribunal has awarded a total sum of Rs.16,14,500/- as compensation.

4.The deceased being a salaried person employed in the State Transport Corporation, the claimants are entitled for fixation of income inclusive of future prospects. However, the Tribunal has omitted to consider the future prospect of the deceased. The law regarding future prospects has been settled by the Constitution Bench of the Hon'ble Supreme Court in National Insurance Company v. Pranay Sethi and others reported in (2017 (2) TNMAC 609 (SC))which provides future prospects for victims die in road accident based on their age and category.

5.As far as the deceased in this case being a salaried person employed in the Tamil Nadu State Transport Corporation and aged about 41 years at the time of demise, 30% of his salary has to be added as future prospects. The Tribunal considering the salary certificate has fixed the monthly income of the deceased as Rs.12,575/-. 30% of the monthly income has to be added towards future prospects. Out of which, 1/4th has to be deducted for his personal expenditure, since at the time of his demise, he has left behind his wife, two minor sons and aged mother as his dependants. Therefore, a sum of Rs.20,59,848-00

[Rs.12,575/- + Rs.3773(FP)] x 3/4 x12 x 14] is awarded for loss of dependency. Towards funeral expenses, a sum of Rs.15,000/- is awarded. A sum of Rs.40,000/- each of the claimants is awarded under the head of loss of consortium. Therefore, the compensation awarded by the tribunal is enhanced from Rs.16,14,500/- to Rs.22,34,848-.

6.The break up details of the enhanced award amount is as follows:-

Sl . No .	Particulars	The amount awarded by the Tribunal (Rs.)	The modified amount awarded by this Court (Rs.)
1.	Loss of dependency (Rs.12,575/- + 30% (Rs.3773/-= Rs.16,348/-) -1/4 (Rs.4087/-) x12 x 14	15,84,408-00	20,59,848-00
2.	1. Loss of consortium to the 1st claimant (Rs.40,000/-) 2.Loss of parental consortium to the 2nd and 3rd claimants (Rs.40,000/- each) 3.Loss of filial consortium to the 4th claimant Rs.40,000/-	-----	1,60,000-00
3.	Loss of funeral expenses	10,000-00	15,000-00
4.	Loss of love and affection to the claimants	20,000-00	-----
Total		22,34,848-00	

7.The enhanced compensation of Rs.22,34,848-00 shall be paid by the 2nd respondent Insurance Company with interest at the rate of 7.5% p.a., from the date of filing of the claim petition till the date of realisation. The compensation shall be apportioned among the claimants in the following ratio:

1st claimant 40%	Rs.8,93,939-00
2nd and 3rd claimants each 25%	Rs.5,58,712-00 each
4th claimant 10%	Rs.2,23,485-00

At the time of filing the claim petition, claimants 2 and 3 are minors. Hence, their shares shall be deposited into a Nationalised Bank till they attain 21 years age. The first claimant, who is the mother of minor sons/natural guardian, shall withdraw the interest once in six months and spend the same for welfare of the sons.

8.The learned counsel appearing for the 2nd respondent/Insurance company would submit that the amount awarded by the Tribunal with interest has already been deposited. If so, the enhanced compensation shall be deposited with interest within a period of 12 weeks from the date of receipt of a copy of this order. On such deposit, the claimants 1 and 4 are permitted to withdraw their respective share amount on filing appropriate application.

9.With the above modification, this Civil Miscellaneous Appeal is allowed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

The Motor Accident Claims Tribunal,
Chief Judicial Magistrate,
Tiruvannamalai.

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KJ(CO)
SP(22/04/2021)