



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.02.2021

PRONOUNCED ON : 20.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.NO.1520 OF 2015

1. Vennila
2. Rukkmani

... Appellants / Petitioners

Vs.

1. G.Sureshkumar
2. N.Shanmugam
3. ICICI Lombard General Insurance Company Limited,
Zenith House, Keshavrao Khade Marg,
Mahalaxmi, Mumbai - 400 034.
4. P.K.Vajaravel
5. Tamil Nadu State Transport Corporation Ltd.,
Coimbatore Division - II,
Rep.by its Managing Director,
Chennimalai Road, Erode.

... Respondents/Respondents

(The claim is dismissed as against the respondents 4 & 5, hence they are given up)

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the compensation amount awarded in the Judgment and Decree dated 06.01.2012 made in M.C.O.P.No.588 of 2008 on the file of MACT / Additional Sub Court, Tiruppur.

For Appellants : Mr.MA.P.Thangavel

For R1 & R2 : No appearance

For R3 : Mrs.R.Sreevidhya

For R4 & R5 : Given up



JUDGMENT

(This case has been heard through video conference)

The claim petitioners are the appellants herein.

2.claim petitioners are the widow and the mother of the deceased.

3.Brief facts of the case are as follows:

3(a).On 29.11.2007, at about 10.00 a.m., the deceased Chandrasekar was riding a moped bearing Registration No. TN 40 W 0892 on the Kunnathur to Perumanallur road from South to North on the extreme left side of the road adhering the traffic rules and regulations. When the deceased was nearing Vallipuram bus stop, one G.Sureshkumar being the driver of the lorry bearing Registration No.TN 34 C 3447 drove the same so swiftly and in a rash and negligent manner from the same direction on the said road without horn and suddenly hit the moped of the deceased. Due to the sudden hit, the deceased was thrown away on the road along with moped and the lorry run over on the mopped with the deceased and dragged on the road side.

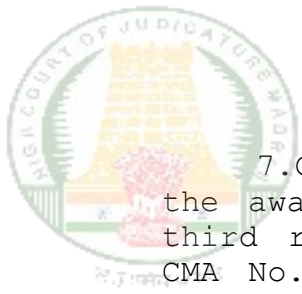
3(b).At that time, the fourth respondent drove the bus bearing Registration No. TN 33 N 2012 on the same direction and dashed on the back side of the lorry. Due to the same, the deceased sustained severe injuries on head, chest hip, legs and all over the body and he died on the spot and the moped also damaged.

3(c).Hence, the claim petitioners have filed a claim petition in MCOP.No.588 of 2008, on the file of Motor Accidents Claims Tribunal/Additional Sub Court at Tiruppur, seeking compensation and the Tribunal has awarded a sum of Rs.6,94,400/- as compensation. Aggrieved against the same, the claim petitioners have filed this Civil Miscellaneous Appeal.

4.The factum of the accident, manner of the accident, rash and negligent driving of the driver of the offending vehicle are not under dispute and the same is confirmed by this Court.

5.Before the Tribunal during the course of trial, on behalf of the claim petitioners PW1 to PW3 were examined and marked the documents as Exs.P1 to P7 and on behalf of the respondents RW1 and RW2 were examined and marked the documents as Exs.R1 to R3.

6.Heard both the learned counsels on the point of enhancement of compensation.



7. On a perusal of the records, it appears that as against the award passed by the Tribunal in MCOP.No.588 of 2008, the third respondent/Insurance Company has preferred an appeal in CMA No. 543 of 2014 before this Court and by an order dated 04.03.2014, this Court has dismissed the said appeal by confirming the negligence on the part of the driver of the offending vehicle, quantum awarded, liability and pay and recovery as ordered by the Tribunal.

8. Further, it is seen that, as against the respondents Nos.4 & 5, the Tribunal has already dismissed and directed the third respondent/Insurance Company to pay award amount and to recover the same from the owner of the vehicle/second respondent.

9. On the Point of quantum of compensation, the deceased said to have engaged in the avocation of Marriage Alliance Broker and there is a specific evidence to the effect by RW1. Taking into consideration, the nature of the avocation said to have been carried on by the deceased and the manner of the accident, this Court is of the considered opinion that a sum of Rs.8,000/- would be the monthly income that he could have been earned by the said avocation and by the following the constitution judgment, claim petitioners are entitle to 40% of the increase towards the future prospects and accordingly, the notional income is calculated as under:

$$\text{Rs.8,000/-} + 40\% \text{ of } 8,000\text{-} = \text{Rs.11,200/-}$$

10. As could be seen from Ex.P5/Death Certificate and Ex.P2/Postmortum report, at the time of the accident, the deceased was aged about 35 years and hence, as per the decision of the Hon'ble Supreme Court in Sarla Verma v. Delhi Transport Corporation [2009 (2) TN MAC 1 (SC)], multiplier of 16 has to be adopted.

11. As the dependents are only two persons, there shall be a deduction of 1/2. Accordingly, the pecuniary loss sustained by the claim petitioners are re-assessed as under:

$$\begin{aligned} \text{Rs.8,000/-} + 40\% \text{ of } 8,000\text{-} &= \text{Rs.11,200/-} \\ \text{Rs.11,200} \times 12 \times 16 \times \frac{1}{2} &= \text{Rs.10,75,200/-} \end{aligned}$$

and further, this Court is inclined to award a sum of Rs.15,000/- under the head of funeral expenses and a sum of Rs.15,000/- under the head for Transportation charges. Further, the mother of the deceased is entitled to get a sum of Rs.50,000/- as compensation under the head of loss of love and affection and the widow of the deceased is entitled to get a sum



of Rs.40,000/- under the head of loss of consortium and same is shown as under:

Sl. No.	Head	Amount awarded by the Tribunal (in Rs.)	Amount granted by this Court (in Rs.)
1.	Pecuniary loss of income	6,79,320/-	10,75,200/-
2.	Funeral Expenses	---	15,000/-
3.	Transportation Charges	---	15,000/-
4.	Loss of love and affection to the second petitioner	---	50,000/-
5.	Loss of consortium to the first petitioner	---	40,000/-
6.	Funeral Expenses, loss of estate and love and affection	15,000/-	---
		6,94,320/- = 6,94,400/-	11,95,200/-

Hence, compensation awarded by the Tribunal is enhanced from Rs.6,94,400/- to Rs.11,95,200/- (Rupees Eleven Lakhs Ninety Five Thousand and Two Hundred Only).

12.In the result,

(a)This Civil Miscellaneous Appeal is partly allowed to the limited extent indicated as above.

(b)The third respondent/Insurance Company is directed to deposit the award amount as enhanced by this court to the credit of MCOP.No.588 of 2008, on the file of Motor Accidents Claims Tribunal/Additional Sub Court, Tiruppur, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

(c)The award amount will carry interest at the rate of 7.5% per annum from the date of filing of the petition till the date of payment.

(d)On such deposit, the first claim petitioner/widow of the deceased is entitled to take a sum of Rs.8,13,640/- including loss of consortium and the second claim petitioner/mother of the deceased is entitled to take a sum of Rs.3,81,560/- including



loss of love and affection, less the amount already withdrawn, if any.

(e) The claimants shall pay necessary Court fee, if any, on the enhanced compensation.

(f) No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dua

To

The Motor Accident Claims Tribunal,
Additional Sub Court, Tiruppur.

Copy To

The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mrs.R.Sreevidhya, Advocate, S.R.No.24074

+1cc to Mr.MA.P.Thangavel, Advocate, S.R.No.24265

C.M.A.No.1520 of 2015

VBM(CO)

RLP (30/12/2021)