



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.2322 of 2021

1.Michael
2.Madhalaimary ... Appellants/Claimants

Vs.

1. Madheswaran
2. The Proprietor,
KR & Co. Bus Transport,
Office at 3/5-455, K.R.Pudur,
Navapatty Post, Mettur Taluk,
Salem District.
3. The Divisional Manager
Divisional Office,
National Insurance Company Limited,
73, Perundurai Road,
Erode.

... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 for enhancement of the compensation in award dated 10.12.2019 made in MCOP No.398 of 2017 on the file of the Motor Accident Claims Tribunal, IV Additional District and Sessions Court, Bhavani at Erode.

For Appellant : Mr.M.Lokesh

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

The appellants challenge the award passed by the Motor Accident Claims Tribunal, IV Additional District and Sessions Court, Bhavani at Erode in MCOP No.398 of 2017.



2.The claimants have come up with this appeal seeking enhancement of compensation. This is the case of the fatal accident. On 21.07.2017 at 06.45 p.m, the deceased David Bernard was riding his motorcycle bearing Reg.No.TN-36-AU-4641 on Pennagaram to Mecheri main road, in front of Aayamarathupatti bus stop, Perumbalai in left side of the road. At that time, the first respondent, who drove the bus bearing Reg.No.TN-30-AH-1200 in a rash and negligent manner, dashed against the deceased vehicle. The parents of the deceased filed the claim petition before the Tribunal. Though they claimed Rs.20,00,000/- as compensation, the Tribunal has awarded Rs.15,58,000/- together with interest at 7.5% per annum, under the following heads:-

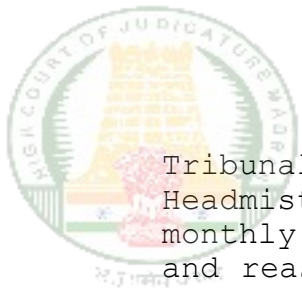
Heads	Rs.
Loss of income	14,28,000/-
Love and affection	90,000/-
For Transportation	25,000/-
For Funeral Expenses	15,000/-
Total	15,58,000/-

3.The learned counsel appearing for the appellants would contend that since the amount awarded by the Tribunal is meager in all the heads, the claimants are entitled for higher compensation. He would further contend that at the time of accident, the deceased was 26 years and hale and healthy. He was the only sole breadwinner of his family. He was B.Sc., B.Ed., degree graduate and he was working as a Teacher in a Private School and taking tuition and earning Rs.20,000/- per month. But the Tribunal without considering the age of the deceased and his educational qualification, fixed the monthly income at Rs.10,000/-, which is meager. Hence, the appellants seek for enhancement of compensation.

4.This Court carefully considered the submission of the learned counsel appearing for the appellants/claimants and perused the materials available on record.

5.It is not in dispute that the deceased died in an road accident that had taken place on 21.07.2017. The finding of the Tribunal that the accident occurred due to the negligence of the driver of the Transport Corporation has become final and hence, it need not be adverted to in the appeal.

6.Though the learned counsel appearing for the appellants/claimants has contended that the award is meager and sought enhancement, on perusal of the records, we find that the



Tribunal, on proper appreciation of evidence of P.W.2 Headmistress and Ex.X.3 acquittance register, has fixed the monthly income and adopting correct multiplier awarded a just and reasonable compensation. Further, the customary quantum of compensation under remaining heads were fixed by the Tribunal by following the Judgments of the Hon'ble Supreme Court in the case of National Insurance Company Ltd., vs. Pranay Sethi and others reported in 2017(2) TNMAC 609 (SC) and Sarala Verma and others vs. Delhi Transport Corporation and another reported in 2009 TN MAC 1. We find no reason to interfere with the conclusion reached by the Tribunal. This appeal has no merit.

7. For the foregoing reasons, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

skn

To

The Motor Accident Claims Tribunal,
IV Additional District and Sessions Court,
Bhavani at Erode.

C.M.A.No.2322 of 2021

SSI (CO)
PR (25/10/2021)