



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM:

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

C.M.A.No.1574 of 2021
and
C.M.P.No. 8193 of 2021

The Managing Director,
M/s.Tamil Nadu State Transport Corporation,
(Kumbakonam Division I) Ltd.,
Railway Station New Road,
Kumbakonam - 612 001. ... Appellant/3rd Respondent

Vs.

1. R.Sudha
2. Minor R. Jeyakumar
3. Minor R. Kaviya
(Minor represented by their mother R.Sudha)
4. C. Ananthi ... Respondents 1 to 4/Petitioners
5. K.Babu

6. The Shri Ram General Insurance Co. Ltd.,
No.5, Ramachandra Street, 1st Floor,
Saravanan Nagar, Sevaram, Perungudi,
Chennai - 96. ... Respondents 5 and 6/Respondents 1 and 2

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 15.10.2020 made in M.C.O.P.No.1359 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Cuddalore.

For Appellant :Mr.L.Ramanathan
for Mr.D.Venkatachalam

For Respondents:Mrs.Ramya V. Rao for R1 to R3
Address cannot be located for R4
No appearance for R5
Mr.S.Dhakshnamoorthy for R6



JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM,
J.]

WEB COPY

Assailing the Judgment and Decree dated 15.10.2020 made in M.C.O.P.No.1359 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Cuddalore, the present appeal has been filed.

2.Facts of the case in brief are that the wife, two minor children and mother of the deceased-Ravikumar, who died in an accident, which took place on 10.11.2016, filed a petition claiming compensation. It is an admitted fact that the deceased was a driver by profession and he was on the wheels at the time of the accident. The claimants have contended that the deceased died at the age of 31 years and he was earning Rs.25,000/- per month. The Tribunal fixed the income as Rs.15,000/- to arrive at loss of income to the family. Thus, total compensation awarded was Rs.33,49,000/- along with interest at the rate of 7.5% per annum.

3.It is the contention of the learned counsel for the appellant/Transport Corporation that without any evidence on record, the Tribunal has fixed the income of the deceased as Rs.15,000/- and also added 40% for future prospectus. According to the learned counsel, FIR was registered against the deceased and hence the criminal case was referred as closed as abated, but this fact was not taken note by the Tribunal.

4.But we are not agreeing with the submission of the learned counsel for the appellant as the evidence on records reveals that the accident had happened due to the negligence of the driver of the Transport Corporation. It is settled legal position that the Tribunal is having ample power to fix the negligence based on the evidence produced before the Court and registration of a criminal case is the sole event in deciding the issue on negligence.

5.The learned counsel for the appellant fairly conceded that taking note of the year of the accident, the income can be fixed as Rs.13,500/- It is next contended by the learned counsel for the appellant that the Tribunal has awarded Rs.2,50,000/- for loss of love and affection, while the claimants are entitled for Rs.1,20,000/- under the head. Perusal of records would reveal that the deceased died at the age of 31 years and by fixing



notional income at Rs.13,500/-, adding 40% towards future prospectus, his income would be Rs.18,900/-. The proper multiplier would be '16' and deducting $\frac{1}{4}$ towards personal expenses, the loss of income is arrived at Rs.27,21,600/-. Rs.1,20,000/- is fixed under the head Loss of Love and affection. The amounts awarded under the heads of Funeral expenses, Transportation Charges, Loss of Estate and Loss of Consortium are confirmed. In fine, the amounts are recalculated as follows:-

Sl. No.	Heads	Amounts awarded in Rs.
1.	Loss of Income	27,21,600/-
2.	Loss of love and affection	1,20,000/-
3.	Funeral Expenses	15,000/-
4.	Transportation Charges	5,000/-
5.	Loss of Estate	15,000/-
6.	Loss of Consortium	40,000/-
	Total	29,16,600/- rounded off to 29,16,000/-

6. In view of the above modifications, the Civil Miscellaneous Appeal is partly allowed. The appellant/Tamil Nadu State Transport Corporation is directed to deposit the above modified award amount of Rs.29,16,000/- with interest at the rate of 7.5% from the date of claim petition till the date of realization and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the 1st claimant/wife is permitted to withdraw an amount of Rs.10 lakhs, 2nd and 3rd claimants/children of the deceased are permitted to withdraw an amount of Rs.7.5 lakhs each and the 4th claimant/mother of the deceased is permitted to withdraw an amount of Rs.4,16,000/-, less the amount already withdrawn, if any, together with proportionate interest and costs. Insofar as the 2nd and 3rd claimants / minor children are concerned, their share shall be deposited by the Tribunal in any Fixed Deposit Scheme in any one of the Nationalized Bank and it shall be renewed periodically till they attain majority and the interest accrued thereon shall be withdrawn by the 1st claimant / mother once in three



months, directly from the Bank. It is made clear that the claimants are not entitled for interest for the delay period. No costs. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

Jer
To

1. The Motor Accident Claims Tribunal,
Special Sub Judge, Cuddalore.
2. The Section Officer,
V.R.Section,
Madras High Court, Chennai.

+1cc to Mr.D.Venkatachalam, Advocate Sr.9617
+2cc to M/s.Ramya V.Rao, Advocate Sr.9504

C.M.A.No.1574 of 2021
and
C.M.P.No. 8193 of 2021

nrjk[co]
srg 16/03/2022