



CMA.No.3399 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.3399 of 2014

1.T.Ponnusamy
2.P.Parvathy
3.P.Menaka

... Appellants/Petitioners

Vs.

1.Rangasamy
2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division) Ltd.,
Pillai Thanneerpandal,
Thirumayan Road,
Pudukottai - 622200.

...Respondents / Respondents

PRAYER : Appeal filed under Section 173 of the Motor Vehicle Act , 1988 for enhancement the compensation amount and fix the entire negligence on the 1st respondent in the Judgment and Decree dated 22.08.2011 made in MCOP No.200 of 2010 on the file of the Motor Accidents Claims Tribunal/Principal District Court, Erode.



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For Petitioner : Mr.N.Manokaran

For Respondents : Mr.L.Ramanathan [R.2]

JUDGEMENT

The claimants are the appellants before this Court seeking an enhancement of the award passed by the Motor Accidents Claims Tribunal Principal District Judge, Erode in MCOP No.200 of 2010.

2. The petitioners are the parents and sister of one Mr.P.Sankar @ Gowtham who had died in a road accident on 08.02.2009. The petitioner had claimed a compensation of a sum of Rs.17,70,000/-. It is their case that the deceased who was aged about 22 years was working as a Field Officer Sales and Business with Airtel Supreme Net Work, Perundurai Road, Erode, drawing a monthly salary of Rs.20,000/-.

3. The 2nd respondent/Transport Corporation had filed a counter denying the negligence as well as questioning the quantum of compensation.



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4. The Tribunal below on considering the evidence on record had ultimately held that the accident had occurred due to the rash and negligent driving of both the 1st respondent/driver of the Transport Corporation's bus and the deceased and the liability had been fixed in the ratio of 50:50 and consequently, the 2nd respondent/Transport Corporation was made liable to pay only 50% of the quantum awarded by the Tribunal i.e. 50% of Rs.8,27,800 = Rs.4,13,900/-. The petitioners are aggrieved by the inadequate compensation that has been granted by the Tribunal below and have therefore filed this appeal as also the fixing of 50% liability on the deceased.

5. It is the contention of the learned counsel appearing for the petitioners/appellants that despite filing Ex.P.6, salary certificate the Tribunal has only adopted a notional income of Rs.4,600/-, though under Ex.P.6, monthly salary of the appellant is shown as Rs.12,000/-. That apart, the multiplier that has been adopted is only '14', whereas the appropriate multiplier is '18'. The learned counsel would further submit that no amounts have been granted towards the future prospects. He would also



submit that the Tribunal has erred in fixing 50% of the liability on the deceased who was in no way responsible for the accident.

6. The learned counsel appearing for the Transport Corporation would submit that Ex.P.6 appears to be created for the purpose of the case and therefore, Court's reliance may not be placed upon the said document. He would, however, fairly concede that the multiplier has been wrongly adopted as '14' totally overlooking the age of the deceased. He would submit that the Tribunal has rightly held the deceased to be liable for the accident.

7. Heard both the counsels.

8. Ex.P.6 has been marked through P.W.3 who claimed to be a Manager in the company in which the deceased was said to be working. However, the witness has not been able to produce any document to show that he was working so. That apart, the salary certificate which has been printed at a letter head is not supported by attended documents like the Attendance Register, Salary Register etc; therefore reliance cannot be



placed on the said document. However, the notional income of Rs.4,600/- is on the lower side. The Tribunal has discussed in detail the reasons for holding the drivers of both the vehicle liable for the accident and I see no reason to interfere with the said finding.

9. Considering the age and the qualification of the deceased, a sum of Rs.10,000/- can be fixed as a notional income. To this 40% has to be added towards future prospects. Therefore, the monthly income would worked out to a sum of Rs.14,000/-. The annual income would therefore be a sum of Rs.1,68,000/-. Considering the fact that the deceased was a bachelor 50% has to be deducted towards his personal expenses. Therefore, the family would get a sum of Rs.84,000/- per year. To this a multiplier of '18' has to be adopted. Therefore, the amount under the head of loss of income would work out to a sum of Rs.15,12,000/-. The Tribunal has awarded a sum of Rs.30,000/- towards loss of love and affection to the parents and a sum of Rs.15,000/- to the unmarried sister and in addition a sum of Rs.5,000/- granted towards transport charges and Rs.5,000/- towards funeral expenses, the amounts under all these heads remain un-altered.



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10. The award is therefore modified to the aforesaid extent as tabulated herein below:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of income	7,72,800/-	15,12,000/-	Enhanced
2.	loss of love and affection (for petitioners 1 and 2)	30,000/-	30,000/-	Confirmed
3.	Loss of love and affection (for 3rd petitioner)	15,000/-	15,000/-	Confirmed
4.	Transport Charges	5,000/-	5,000/-	Confirmed
5.	Funeral Expenses	5,000/-	5,000/-	Confirmed
	TOTAL	8,27,800/- due to contributory negligence 50% deducted i.e. 4,13,900/-	15,67,200/- due to contributory negligence 50% deducted i.e.7,83,600/-	enhanced by Rs.3,69,700/-

11. Therefore, the Civil Miscellaneous Appeal is allowed and the award of the Tribunal be and hereby is enhanced to a sum of Rs.**7,83,600** /- from Rs.**4,13,900/-** together with interest @ 7.5 % per annum from the date of petition till the date of deposit. In all other respects the award of the Tribunal is confirmed. The 2nd respondent/Transport Corporation is directed



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to deposit the said amount (Rs.7,83,600 /-) to the credit of MCOP No.200 of 2010 on the file of the Motor Accidents Claims Tribunal/Principal District Court, Erode, together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the petitioners are permitted to withdraw the award amount now determined by this Court along with interest and costs, after adjusting the amount if any already withdrawn as apportioned by the Tribunal. The claimants shall pay the Court fee for the enhanced amount, if payable. The Tribunal shall not disburse of the amount till such time as the certified copy showing proof of entire payment of Court fee has been produced. No costs.

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Index : Yes/No
Internet: Yes/No
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To

- 1.Motor Accidents Claims Tribunal/
Principal District Court, Erode.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division) Ltd.,
Pillai Thanneerpandal,
Thirumayan Road,
Pudukottai - 622200.
- 3.The Section Officer,
V.R.Section,
High Court, Madras.



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P.T. ASHA, J,

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