



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A(MD)No.1102 of 2021

and

C.M.P(MD)No.10538 of 2021

The Managing Director,
The Tamil Nadu State Transport
Corporation Limited,
Bye Pass Road,
Dindigul.

:Appellant/Respondent

.vs.

Janaki

:Respondent/Claimant

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree made in M.C.O.P.No.119 of 2019, dated 4.12.2019, on the file of the Motor Accidents Claims Tribunal(Principal District Court), Dindigul.

For Appellant

:Mr.K.Sudalaiyandi

For Respondent

:Mr.N.Sudhagar Nagaraj

JUDGMENT

This Civil Miscellaneous Appeal is filed against the judgment and decree made in M.C.O.P.No.119 of 2019, dated 4.12.2019, on the file of the Motor Accidents Claims Tribunal(Principal District Court), Dindigul.

2.The Transport Corporation is the appellant herein challenging the award on the point of quantum. The deceased was working as a Auto Driver at the time of accident. In the year 2018, he died as a bachelor. The claim petition was filed by his mother, who subsequently got married. In the absence of any document, however, taking note of the possession of LMV licence and also the evidence of P.W.1,coupled with the fact that as per Ex.P4, the deceased had possessed driving licence for LMV for Non Transport Vehicle, Transport Vehicle and possess badge entry, the Tribunal fixed the notional income at Rs.10,000/- and following the decision of **Pranay Sethi's case(2017 (16) SCC 680)**, 40% was added towards future



prospects, totalling to Rs.14,000/-. Since the claim petitioner is the mother of the deceased, $\frac{1}{2}$ of the amount has to be deducted and accordingly the annual income is fixed at Rs.84,000/- and at the time of accident, the deceased is aged 25 years and following **Sarla Verma's case (2009 (2) TN MAC 1 (SC))**, proper multiplier of '18' was adopted. Hence, I find that there is no error in commutation of compensation. The award under the head of loss of estate, loss of consortium, funeral expenses and transport expenses, as awarded by the Tribunal, seems to be just and reasonable. In addition to the loss of consortium, the Tribunal has awarded compensation under the heading loss of love and affection to the tune of Rs.50,000/-, which as per **Pranay Sethi's case**, the claimant is not entitled to. Accordingly, the said award of Rs.50,000/- awarded under the head of loss of love and affection alone is reduced from the total compensation and hence the claimant is entitled to a compensation of Rs.15,92,000/- (Rs.16,42,000/- - Rs.50,000/- = Rs.15,92,000/-). In all other aspects, the award of the Tribunal holds good.

3. In the result, the Civil Miscellaneous Appeal is allowed in part, reducing the total compensation from Rs.16,42,000/- to Rs.15,92,000/- with interest at 7.5% p.a from the date of claim petition till the date of realization. The appellant/Transport Corporation is directed to deposit the modified award amount with accrued interest and costs, less the award amount, if any already deposited, to the credit of claim petition, within a period of 12 weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant is permitted to withdraw the award amount with accrued interest and costs, less the award amount, if any already withdrawn, by filing necessary application before the Tribunal. The Tribunal is directed to refund excess award amount, if any, with proportionate accrued interest, to the appellant/Transport Corporation, if so eligible. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

vsn

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.



To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Dindigul.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-12248[F] dated
15/03/2022)

+1CC to M/s.K.SUDALAIYANDI, Advocate (SR-12330[F] dated
15/03/2022)

C.M.A(MD)No.1102 of 2021
and
C.M.P(MD)No.10538 of 2021
15.03.2022

MGJ(28.03.2022) 3P 6C