



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA (MD)No.788 of 2021

and

CMP(MD) No.7338 of 2021

The Manager Director,
Tamil Nadu State Transport Corporation Ltd.,
Madurai. ... Appellant/1st Respondent

Vs.

1.S.Arunkumar

2.Minor Aadhvukumar

(The Minor second respondent represented through
his father and natural guardian of the first respondent)

3.K.Mallika

4.P.Kandasamy ... Respondents 1 to 4/Petitioners

5.C.Saraswathi ... 5th Respondent/2nd Respondent

6.The Branch Manger,

ICICI Lombard General Insurance Co.Ltd,

No.414, Veer Savarkar Marg.,

Near Siddhivinayak Temple,

Prabhadevi, Mumbai. ... 6th Respondent/3rd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree dated 30.08.2019 passed in M.C.O.P.No.58 of 2019 on the file of the Motor Accident Claims Tribunal (Additional District Judge), Karur.

For Appellant : Mr.K.Sudalaiyandi

For R1 to R4 : Mr.N.Sudhagar Nagaraj

For R6 : Mr.P.Pethu Rajesh

For R5 : No appearance

J U D G M E N T

The Transport Corporation is the appellant herein challenging the award passed in MCOP No.58 of 2019 on the ground of quantum alone.



2.The factum of accident, the manner of the accident and the rash and negligence on the part of the driver of the appellant/transport corporation, are not in dispute. Hence, the finding with regard to the same stands confirmed.

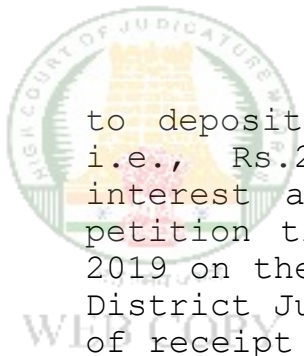
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3.On the point of quantum of compensation, the husband, son and the parents of the deceased Saranya have filed the claim petition and as per the evidence of P.W.1, who is the mother of the deceased, the deceased Saranya was 30 years old at the time of the accident and studied MBA and she was working as Supervisor in Cheran Tex, Vengamedu, Karur and earning Rs.20,000/- per month. She marked Ex.P3-M.B.A mark sheet and Ex.P.4-M.B.A course completion certificate.

4.A perusal of Ex.P.3 and Ex.P.4 makes it clear that the deceased was completed M.B.A and according to her evidence, she was working in Cheran Tex, Karur and earning Rs.20,000/- per mensem. Taking into consideration her educational qualification and the place of the alleged avocation, the tribunal has rightly taken into consideration a notional income of Rs.12,000/- and accordingly, applied 40% towards future prospects as per the judgment of the **National Insurance Co. vs Pranay Sethi and Others reported in 2017 (2) TNMAC 601**. Since there are four legal heirs, 1/4th has to be deducted. Following the decision rendered in Sarla Vearma and Others vs. Delhi Transport Corporation and Another reported in (2009) 6 SCC 12, multiplier 17 is adopted for the age group of 26 to 30. Therefore, I find that the quantum arrived at for loss of future income, i.e., Rs.25,70,400/- is hereby confirmed. The loss of love and affection towards Rs.2,40,000/- is unsustainable in view of the decision of the Hon'ble Supreme Court in **Pranay sethi 's case**. Accordingly, the same is hereby vacated.

5.The learned counsel for the appellant submitted that since the husband has remarried, he is not entitled for spousal consortium. It is relevant to rely on the Judgment of Delhi High Court in the case of the **New India Assurance Co Ltd., Vs Harpal Singh & Ors**, wherein the widow of deceased has remarried, therefore, compensation granted under the head of "loss of dependency and "loss of consortium" is disallowed. Hence, the said contention raised by the learned counsel for the appellant is hereby accepted. Accordingly, the award amount of Rs.40,000/- passed under the head of Loss of Spousal Consortium is hereby vacated. However, for other claimants they are entitled loss of parental consortium and filial consortium viz., Rs.40,000 X 3 = 1,20,000/-.

6.In result, this Civil Miscellaneous Appeal is partly allowed and the quantum of compensation is reduced from Rs.30,10,400/- to Rs.27,30,400/- which shall carry interest at the rate of 7.5% per annum. The appellant/Insurance Company is directed



to deposit the entire compensation amount awarded by this Court, i.e., Rs.27,30,400/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP No.58 of 2019 on the file of the Motor Accidents Claims Tribunal, (Additional District Judge), Karur, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents 1, 3 and 4 herein are at liberty to withdraw the same, as apportioned by the Tribunal, after following due process of law. The second respondent herein is a minor, and therefore, his share of compensation amount is ordered to be deposited in any one of the Nationalized Bank until he attains majority and the first respondent is permitted to withdraw the interest directly from the bank, once in three months in order to maintain the minor. If, the appellant/Insurance Company had already deposited the compensation awarded by the Tribunal to the credit of the said MCOP, then, they are at liberty to withdraw the balance amount which is in excess of the amount awarded by this Court after following due process of law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

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/ /2022

Sub Assistant Registrar(CS)

cp

To

1.The Motor Accident Claims Tribunal (Additional District Judge),
Karur.

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

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-12762[F] dated
17/03/2022)

+1 CC to M/s.P.PETHU RAJESH, Advocate SR-12841[F] dated 18/03/2022

+1 CC to M/s.K.SUDALAIYANDI, Advocate SR-12874[F] dated 18/03/2022

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