



C.M.A.No.1453



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No. 1453 of 2020

and

C.M.P.Nos. 10653 and 12566 of 2020

The Commissioner of Police Madurai City,
Commissioner office, Madurai City,
Madurai

... Appellant

Vs.

1.Akilandam
2.Anbu
3.Inbam
4.Vetriselvi
5.Revathi

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 praying to set aside the Judgment and Decree dated 30.04.2019, passed in M.C.O.P.No. 124 of 2016, by the Motor Accidents Claims Tribunal, Tittagudi (Sub Judge, Tittagudi).

For Appellant : Mr.C.Jayaprakash, Government Advocate
For Respondents : Mr.S.Udhaya Kumar



JUDGMENT

The Appeal has been filed by the appellant/Commissioner of Police, Madurai, to set aside the Judgment and Decree dated 30.04.2019 made in M.C.O.P. No.124 of 2016, on the file of the Motor Accident Claims Tribunal, Sub Judge, Tittagudi.

2. The appeal is filed questioning the quantum of compensation alone and as far as negligence and liability are concerned there is no dispute.

3. The facts are that, on 07.05.2016 at about 06.45 p.m., when the deceased/Sami durai was walking and waiting in the Venganoor Village near "U" turn from Chennai to Trichy National Highway, an omni tempo traveller bearing Reg. No. TN-59 G-0838, driven by its driver in a rash and negligent manner dashed against the said Sami durai, due to which, he died on the spot.

4. According to the respondents/claimants, the deceased was aged about 63 years, was working as Watchman in a private company and earning Rs.17,000/- by way of salary and pension at the time of accident. The respondents/claimants therefore filed a claim petition seeking compensation of Rs.10 Lakhs before the



Motor Accidents claims Tribunal, Tittagudi. On the side of the claimants, only one witness was examined and Exs'.P.1 to P.8 were marked. The respondent examined two witnesses and did not mark any documents.

5. The Claims Tribunal, on assessment of entire evidence on record, awarded Rs.13,34,932/- at 7.5% interest as compensation. Challenging the quantum of compensation awarded by the Claims Tribunal, the Commissioner of Madurai city has filed the above appeal.

6. The learned counsel for the appellant submitted that the income assessed by the Tribunal is on the higher side, as the deceased was aged 63 years at the time of accident. The learned counsel for the appellant therefore submitted that the quantum of compensation awarded by the Tribunal needs to be interfered with.

7. The learned counsel for the respondents/claimants on the other hand, submitted that the deceased was earning a pension of Rs.15,046/- per month but due to the accident, the widow is now paid only 50% of the pension amount i.e. Rs.7,523/- and therefore there is loss. The learned counsel further submitted that the deceased was working in a private company and earning Rs.9,000/- per month



and therefore the Tribunal has rightly assessed the income at Rs.17,000/- per month.

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8. I have heard the learned counsel for the appellant and the learned counsel for the respondents and perused the materials available on records.

9. The respondents/claimants have filed Ex.P.7 in support of the pension drawn by the deceased. The Tribunal on the basis of Ex.P.7 and Ex.P.8 which is pension payment copy and the bank pass book of the deceased assessed the income at Rs.17,000/- per month and awarded Rs.10,92,000/- towards loss of income.

10. I have gone through Ex.P.8/ the bank pass book of the deceased and I find that the income of the deceased from his services as a watchman was Rs.4,000/- per month. The loss of pension is Rs.7,532/-. Therefore, in my view, the monthly income of the deceased can be fixed at Rs.11,500/- ($\text{Rs.4,000} + \text{Rs.7,532} = \text{Rs.11,532/-}$ rounded off to Rs.11,500/-) if 1/4 is deducted from Rs.11,500/- (i.e Rs.2,875/-) the monthly income comes to Rs.8,625/- ($\text{Rs.11,500} - \text{Rs.2,875} = \text{Rs.8,625/-}$). The total loss of income would be Rs.7,25,000/-



(Rs.8,625x12x7 = Rs.7,24,500/- rounded off to Rs.7,25,000/-). Rs.15,000/- each is awarded towards loss of estate and funeral expenses. The total compensation works out to Rs.9,57,932, which is rounded off to 9,58,000/-. Hence the award of the Tribunal is modified as follows:-

<i>S.No.</i>	<i>Various Heads</i>	<i>Awarded by Claims Tribunal</i>	<i>Award by this Court</i>
1.	Loss of Income	Rs.10,92,000/-	Rs.7,25,000/-
2.	Loss of Love and affection (4x 30,000/-)	Rs.1,20,000/-	Rs.1,20,000/-
3.	Loss of Love and affection (1x 60,000/-)	Rs.60,000/-	Rs.60,000/-
4.	Loss of belongings	Rs.22,932/-	Rs.22,932/-
5.	Funeral expenses	Rs.40,000/-	Rs.15,000/-
6.	Loss of estate	-	Rs.15,000/-
	Total	Rs.13,34,932/-	Rs.9,57,932/- rounded off to Rs.9,58,000/-

11. The award of the Tribunal is therefore modified and the claimant is awarded a sum of Rs.9,58,000/- as compensation along with 7.5% interest.

12. It is submitted by the learned counsel for the appellant that 50% of the compensation amount awarded by the Tribunal has already been deposited. Therefore the appellant is directed to deposit balance after deducting the amount already deposited, within a period of four (4) weeks from the date of receipt of copy of the order. The claimants are permitted to withdraw the said amount by



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filing appropriate application. The apportionment of compensation shall be as per the ratio fixed by the Tribunal. The appeal is partly allowed. Consequently connected C.M.Ps are closed. There shall be no order as to costs in this appeal.

17.03.2023

dsn

Speaking Order: Yes/No

Index: Yes/No

NCC:Yes/No



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C.M.A.No.145



To

1.The Sub Judge (Motor Accident Claims Tribunal),
Tittagudi.

2.The Section Officer,
V.R. Section,
High Court, Madras.

3.The Commissioner of Police,
Commissioner Office,
Madurai City.

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N.MALA, J

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