



C.M.A(MD)Nos.939 of 2016 & 1224 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)Nos.939 of 2016 & 1224 of 2017

C.M.A(MD)No.939 of 2016:

Tamil Nadu State Transport Corporation,
Through its General Manager,
Vannarpet, Tirunelveli-3.

... Appellant/Respondent

Vs.

1.Arumugam Chettiar (Died)

2.Revathi (Died)

3.A.Manikandan

4.A.Balaganesan

5.A.Thangamari

... Respondents/Respondents

(Memo, dated 05.12.2022 filed on 06.12.2022 in USR. No. 34965 is recorded, as the respondents 1 and 2 died and the respondents 3-5 who are already on record are recorded as legal heirs of the deceased R1 & R2 vide Court order, dated 20.12.2022)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the award and decree made in M.C.O.P.No.287 of 2014, dated 11.12.2015 on the file of the Motor Accident Claims Tribunal / I Additional District Court, Tirunelveli.



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For Appellant

: Mr.P.Prabhakaran

For R3-R5

: M/s.Jenifer Bibin
for Mr.T.Selvakumaran

C.M.A(MD)No.1224 of 2017:

1.Arumugam Chettiar (Died)

2.Revathi (Died)

3.A.Manikandan

4.A.Balaganesan

5.A.Thangamari

... Appellants/Petitioners

Vs.

Tamil Nadu State Transport Corporation,
Through its General Manager,
Vannarpet, Tirunelveli-3.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to allow this appeal and enhance the award amount in M.C.O.P.No.287 of 2014 on the file of the Motor Accident Claims Tribunal, (I Additional District Court), Tirunelveli, dated 11.12.2015.

For Appellants

:M/s.Jenifer Bibin
for Mr.T.Selvakumaran

For Respondent

: Mr.P.Prabhakaran



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JUDGMENT

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C.M.A(MD)No.939 of 2016 has been filed by the Transport Corporation challenging the award passed by the Motor Accident Claims Tribunal, Tirunelveli in M.C.O.P.No.287 of 2014 on the ground of quantum.

2. A perusal of the grounds of appeal indicates that an award has been passed by the tribunal for a sum of Rs.17,05,000/-. The appeal has been filed admitting the liability to an extent of Rs.12,00,000/- and they have disputed the liability only to an extent of Rs.5,05,000/-.

3. According to the claimants, the deceased was riding a two wheeler on 08.05.2012 and the bus belonging to the respondent transport corporation came from the opposite direction in a rash and negligent manner and dashed against the said two wheeler. In the said accident, the deceased who was a first year law college student had passed away. The tribunal had fixed the monthly notional income at Rs.15,000/- and had ultimately arrived at a compensation under the head of loss of income at Rs.16,20,000/-. The tribunal has further awarded a sum of Rs.50,000/- under the head of loss of love and affection, a sum of Rs.5,000/- under the head of medical expenses, a sum of Rs.5,000/- towards transport



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expenses and a sum of Rs.25,000/- towards funeral expenses. Totally, a sum of Rs.17,05,000/- has been awarded. This award is under challenge in the present appeal.

4. According to the learned counsel appearing for the appellant, the notional income of the first year law college student ought not to have been taken at Rs.15,000/-. Hence, he prayed for reducing the said notional income and thereafter, arrive at an award under the head of loss of income.

5. However, the learned counsel appearing for the respondents/claimants had brought to the notice of the Court that the Division Bench of our High Court in a judgment reported in **2018 (2) TN MAC 407 (K.Bannarisamy & Another Vs. Anbalagan & Others)** was pleased to fix the notional monthly income at Rs.15,000/- for a third year engineering college student for an accident that has taken place in June 2012. The learned counsel for the respondents further relied upon another Division Bench judgment of our High Court in **C.M.A.Nos.2123 and 2124 of 2016 (M/s.Royal Sundaram Alliance Insurance Company Ltd., Vs. Raja & Another)**, dated 19.09.2018. In the said judgment, for an accident that has taken place in the year 2012, the notional income has been taken at Rs.15,000/- for engineering college student. Therefore,



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according to the learned counsel appearing for the respondents, the tribunal was right in fixing the notional income at Rs.15,000/-. However, he contended that the future prospects of the law college student has not been taken into consideration by the tribunal and hence, they prayed for enhancement in his appeal filed in C.M.A(MD)No.1224 of 2017.

6. I have carefully considered the submissions made on either side and perused the material records.

7. In view of the Division Bench of our High Court in **2018 (2) TN MAC 407 (K.Bannarisamy & Another Vs. Anbalagan & Others)** and **C.M.A.Nos.2123 and 2124 of 2016 (M/s.Royal Sundaram Alliance Insurance Company Ltd., Vs. Raja & Another)**, this Court is in concurrence with the submissions made on the side of the claimants that the notional income of a law college student could be fixed at Rs. 15,000/- for an accident that has taken in the year 2012. Therefore, there are no grounds to reduce the said notional income.

8. Considering the fact that the parents have already passed away and the award amount has to be shared only by elder brother, elder sister and a younger brother, this Court is not inclined to consider any enhancement of the above said compensation. Therefore, in view of the



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above said deliberations, both the Civil Miscellaneous Appeals stand
dismissed. No costs.

30.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1.The Motor Accident Claims Tribunal /
I Additional District Court,
Tirunelveli.

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



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Judgment made in
C.M.A(MD)Nos.939 of 2016 & 1224 of 2017

30.06.2023