



C.M.A.(MD)No.247 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.(MD)No.247 of 2013

and

M.P(MD) No.2 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore.

... Appellant/2nd Respondent

-vs-

1. G.Vanitha

2. K.Subramanian

... Respondents 1 and 2/
Petitioners

3. M.Selvam

... 3rd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.93 of 2006, dated 25.04.2011, on the file of the Motor Accident Claims Tribunal/ Sub Court, Palani.

For Appellant : Mr.M.Prakash

For Respondents : No appearance



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J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant as against the order passed in M.C.O.P.No.93 of 2006, dated 25.04.2011, on the file of the Motor Accident Claims Tribunal/ Sub Court, Palani, Dindigul District, wherein, the respondents 1 and 2 herein have filed the claim petition claiming compensation before the Tribunal and the Tribunal has awarded a sum of Rs.6,29,000/- (Rupees Six Lakhs Twenty Nine Thousand only) towards compensation.

2. For the sake of convenience and brevity, the parties hereinafter will be referred to as per their status/ranking in the Tribunal.

3. In this case, the respondents 1 and 2 herein have filed the petition before the Tribunal alleging that the petitioners are the legal heirs of the deceased Gnanasoundram. On 05.01.2005, at about 03.00 p.m, when he was riding his Motor Cycle bearing Registration No.TN-41-E-3233, at that time, near Murukuthupallam, the first respondent Bus bearing Registration No.TN-37-N-0447 came in a rash and negligent manner and dashed against



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the Motor Vehicle of Gnanasoundram. Thereby, he sustained injuries and then died on the way to hospital. The deceased was aged about 33 years on the date of accident and he was earning a sum of Rs.20,000/- per month. The accident was occurred due to the negligence on the part of the driver of the Bus. Therefore, they claim compensation.

4. The appellant herein filed counter stating that the averments made in the petition are false and frivolous and the manner of accident is denied. The second respondent denied the age, income and occupation of the deceased. The driver of the first respondent drove the vehicle in a slow speed and the rider of the two wheeler only drove the vehicle in a rash and negligent manner and dashed against the bus. Thereby, he himself invited the accident. Therefore, the second respondent is in no way liable to pay compensation to the petitioners.

5. Before the Tribunal, on the side of the petitioners, P.W.1 to P.W.3 were examined and documents Ex.P.1 to Ex.P.8 were marked. On the side of the respondents, no witness was examined and no documents were marked.



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6. The Tribunal after hearing both sides fixed the liability as against the appellant/second respondent that due to the negligence on the part of the driver of the bus, the accident was happened. The Tribunal has awarded a sum of Rs.6,29,000/- (Rupees Six Lakhs Twenty Nine Thousand only) towards compensation. As against the award passed by the Tribunal, the present appeal has been filed by the appellant/second respondent disputing quantum of the amount. This appeal is only filed disputing the quantum and not on the negligence.

7. According to the appellant, the deceased was aged about 37 years while so, the proper multiplier is only “15”. But the Tribunal has awarded a sum of Rs.6,29,000/- (Rupees Six Lakhs Twenty Nine Thousand only) towards compensation by taking multiplier of “17”. Therefore, the order passed by the Tribunal is liable to be modified.

8. There was no representation on the side of the respondents. Already so many times the case was posted under the caption “for orders”. For the last few hearings, no representation for the respondents. Today also there is no representation for the respondents. Therefore, this Court is inclined to pass



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the order in the absence of respondent after hearing the appellant.

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9. The only contention of the appellant is the age of the deceased was 37 years thereby the multiplier is 15, but the trial Court taken as 17, hence it has to be modified. As per the judgment of the Hon'ble Supreme Court reported in **2017 (16) SCC 680 (Insurance Company Limited Vs. Pranay Sethi and others)** the appropriate multiplier is mentioned in the judgment of the Honourable Supreme Court reported in **2009 (2) TN MAC 1(SC) (Sarala Verma & others V.Delhi Transport Corporation and another)**. As per the judgment of the Hon'ble Supreme Court in **2009 (2) TN MAC 1(SC) (Sarala Verma & others V.Delhi Transport Corporation and another)** the proper multiplier for the age of the deceased 37 is only "15". Therefore, this Court is inclined to modify the order of the Tribunal to that effect. The Tribunal after deducting the 1/3 of the income for personal expenses of the deceased, taken the annual income as Rs.36,000/- Therefore, the award amount would come to Rs.36000/-x 15=Rs.5,40,000/-. Apart from that, the Tribunal has awarded in other heads, which are also modified. Therefore, this Court only modifies the multiplier in respect of "17" as "15". Therefore, the award amount would come to Rs.5,40,000/- towards loss of income.



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10. In view of the above said discussion, the respondents 1 and 2/ petitioners are entitled to the amount as follows:

Loss of Income	-	Rs.5,40,000/-
Towards Consortium	-	Rs. 5,000/-
Funeral Expenses	-	Rs. 2,000/-
Loss of estate	-	Rs. 2,500/-

Total	-	Rs.5,49,500/-

In total, the petitioners are entitled for Rs.5,49,500/- (Rupees Five Lakhs Forty Nine Thousand and Five Hundred only) rounded off to **Rs.5,50,000/- (Rupees Five Lakhs and Fifty Thousand only)** towards compensation.

11. In the result, this Civil Miscellaneous Appeal stands partly allowed. The order passed by the Motor Accident Claims Tribunal, Sub Court, Palani, in M.C.O.PNo.93 of 2006, dated 25.04.2011, is modified to the effect that the petitioners are entitled to a sum of **Rs.5,50,000/- (Rupees Five Lakhs and Fifty Thousand only)** towards compensation along with interest at the rate of



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7.5% p.a from the date of filing petition till the date of realization of payment.

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The second respondent is directed to deposit the entire award amount within a period of two months from the date of this order, by deducting the amount already, if any, paid. On such deposit by the appellant/ second respondent, the petitioners are at liberty to withdraw the same, if already the amount was not withdrawn by the petitioners. The petitioners 1 and 2 are entitled to equal share in the modified amount. There shall be no orders as to costs. Consequently, connected Miscellaneous Petition is closed.

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

1. The Motor Accident Claims Tribunal,
Sub Court, Palani,
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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