



C.M.A.(MD).No.38 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.38 of 2018
and
C.M.P(MD) No.488 of 2018

The Block Development Officer,
Panchayat Union Office,
Devakottai.

... Appellant/2nd Respondent

-vs-

1. Surya
2. Balakrishnan
3. Vasantha
4. M.Rajendran

... Respondents 1 to 3/Petitioners

... 4th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the judgment and decree dated 07.12.2016 passed in M.C.O.P.No.239 of 2016 on the file of the learned Motor Accident Claims Tribunal-cum – Chief Judicial Magistrate, Sivagangai.

For Appellant : Mr.T.Villavan Kothai
Additional Government Pleader

For R-1 to R-3 : Mr.A.Shajahan
For R-4 : No appearance



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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the Block Development Officer, who was arrayed as second respondent in M.C.O.P.No. 239 of 2016, on the file of the learned Motor Accident Claims Tribunal - cum – Chief Judicial Magistrate, Sivagangai, primarily, on the ground of quantum.

2. According to the claimants, the deceased was aged about 30 years old and he was running a welding workshop and earning a sum of Rs.20,000/- per month. While he was riding a two wheeler on 23.04.2013 at about 02.25 p.m., the vehicle belonging to the second respondent and driven by the first respondent came in a rash and negligent manner and dashed against the two wheeler. In the said accident, the husband of the first claimant, namely, Kaleeswaran had passed away. The claimants have sought for compensation of Rs.15,00,000/- (Rupees Fifteen Lakhs only).

3. The second respondent had filed a counter contending that the entire negligence is on the part of the deceased and therefore, they are not liable to pay any compensation and they are also questioning the quantum of compensation as prayed for in the claim petition.



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4. The Tribunal, after considering the oral and documentary evidence, had arrived at a finding that the notional income of the deceased person would be at Rs.7,500/- and assessed the age of the deceased as 30 years. The Tribunal applied multiplier at “18” and arrived at Rs.10,80,000/- towards loss of income. The Tribunal has further awarded a sum of Rs.25,000/- towards funeral expenses, a sum of Rs.3,000/- towards Transport expenses, a sum of Rs.2,00,000/- towards loss of love and affection. In total, a sum of Rs.13,08,000/- has been awarded by the Tribunal. Challenging the said award, the present appeal has been filed by the Block Development Officer.

5. According to the learned Additional Government Pleader appearing for the appellant, when the age of the deceased has been fixed at 30 years, the multiplier of “17” alone can be applied. The Tribunal had wrongly applied the multiplier of “18”. He further contended that each one of the claimants would be entitled to only a sum of Rs.40,000/- towards loss of love and affection and therefore awarding a sum of Rs.2,00,000/- towards loss of love and affection for three claimants is not legally sustainable. Hence, he prayed for setting aside the award to the said extent.



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6. Per contra, the learned counsel appearing for the respondents 1 to 3 herein had contended that the compensation fixed by the Tribunal is reasonable and the amount may not be disturbed. He further contended that the claimants have filed Ex.P.7 – letter pad and Ex.P.8- Professional Tax Receipt to indicate that he was running a welding workshop and therefore, the Tribunal ought to have enhanced the notional income. Hence, he prayed for the dismissal of the appeal filed by the Government.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. As per Ex.P.5- driving license, the age of the deceased is 30 years on the date of accident. In the judgment of the Hon'ble Supreme Court reported in **2009 ACJ 1298 (Sarla Varma (SMT) and others Vs. Delhi Transport Corporation and another)** paragraph No.19, it is held that the multiplier applicable for age group of 30 years is 17. Therefore, this Court is inclined to reduce the multiplier from “18” to “17”.

9. In the judgment of the Hon'ble Supreme Court reported in **2018 (18) SCC 130 (Magma General Insurance Company Limited vs. Nanu Ram**



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alias Chuhru Ram and others) it is held that each one of the dependents are entitled to a sum of Rs.40,000/- towards loss of love and affection. In the present case, there are three claimants and therefore, each one of them would be entitled to a sum of Rs.40,000/-. The Tribunal ought to have awarded only a sum of Rs.1,20,000/- instead, awarded a sum of Rs.2,00,000/-. Therefore, this Court is inclined to interfere in the award under the said head and reduce the same to Rs.1,20,000/- from Rs.2,00,000/-.

10. In view of the above said discussions, the award of the Tribunal reassessed as follows:

Loss of income	: Rs.10,20,000/-
Funeral Expenses	: Rs. 25,000/-
Transport Charges	: Rs. 3,000/-
Loss of Love and Affection	: <u>Rs. 1,20,000/-</u>
Total	: Rs.11,68,000/-

11. The award passed by the Tribunal is modified and reduced from Rs.13,08,000/- (Rupees Thirteen Lakhs and Eight Thousand only) to Rs.11,68,000/- (Rupees Eleven Lakhs and Sixty Eight Thousand only).



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12. A Memo dated 12.06.2024, has been filed by the learned counsel appearing for the claimants to the effect that the 3rd claimant, namely, the mother of the deceased had passed away, leaving behind the second claimant as the only legal heir. In such circumstances, the claimants 1 and 2, namely, wife and father of the deceased person shall be entitled to equally share the award amount. The appellant herein is directed to deposit the entire award amount along with interest at the rate of 7.5% and cost within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit, the said claimants are entitled to withdraw their respective shares along with accrued interest and costs.

13. Accordingly, this Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

19.06.2024
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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accident Claims Tribunal-cum –
Chief Judicial Magistrate,
Sivagangai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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