



C.M.A.(MD)No.1155 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 14.12.2023

PRONOUNCED ON : 08.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.1155 of 2017

1.Saleth Mary

2.Reegan

... Appellants / Claimants

Vs.

M/s.Tamil Nadu State Transport
Corporation Ltd.,
Erode.

... Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 03.03.2016 passed in M.C.O.P.No.960 of 2015 on the file of the Special District Judge / Motor Accidents Claims Tribunal, Trichirappalli and seeking enhancement of compensation of Rs.10,00,000/- (Rupees Ten Lakhs only).



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For Appellants : Mr.N.Sudhagar Nagaraj

For Respondent : Mr.K.Ramaiah

JUDGMENT

This Civil Miscellaneous Appeal has been directed against the Judgment and decree dated 03.03.2016 passed in M.C.O.P.No.960 of 2015 on the file of the Special District Judge / Motor Accidents Claims Tribunal, Trichirappalli by the appellants / claimants challenging the quantum of the award.

2. For the sake of convenience, the parties are referred herein as per their rank before the Trial Court.

3. The brief facts in a nutshell are as follows:

(i) This is a fatal case. On 14.05.2015 at about 21.30 Hrs, the deceased one Ravichandran alias Alex was driving his Motor cycle bearing registration No.TN 81 A 1461 returning from Kangeyam in Tiruppur



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District to Trichy. One Thangamalaiyali / co-worker was also travelled along with him as pillion rider. While the deceased was riding his motorcycle, keeping his left side i.e., in the north side of Karur – Trichy Main road, coming from west to east, near Kudil in Thirupparaithurai in Karur - Trichy main road, the respondent's TNSTC bus bearing registration No. TN 74 N 1533 in high speed from the opposite direction i.e., from east to west suddenly came towards right side and dashed against the petitioner's motorcycle. As a result of the said collision, both the deceased and the pillion rider were thrown away and sustained multiple and fatal injuries. The deceased sustained fatal injuries on his head, neck and both legs and was taken to the Government Hospital, Trichy. However, he died while getting treatment in Government Hospital, Trichy on the same day. The postmortem of the deceased was done on the next day. At the time of the accident, the deceased was 26 years old and was working as a welder in a company namely M.M.Truss Fabrication & Erectors, Trichy-1, earned Rs.20,000/- (Rupees Twenty Thousand only) per month.

(ii) Hence, the legal heirs of the deceased Ravichandran alias Alex / claimants have filed M.C.O.P.No.960 of 2015 on the file of the Special



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District Judge / Motor Accidents Claims Tribunal, Trichirappalli seeking compensation for the loss of life of the deceased Ravichandran alias Alex.

The 1st petitioner is the mother of the deceased. The 2nd petitioner is the brother of the deceased. The respondent had filed a counter refuting the allegations set forth in the claim petition.

(iii) After considering the oral and documentary evidence and the arguments submitted by the respective parties, the Tribunal framed two issues. The learned Tribunal proceeded to conclude that the accident had happened only because of the rash and negligence of the driver of the respondent's bus. Hence, the learned Tribunal has fixed the liability on the part of the respondent and also awarded a sum of Rs.6,93,000/- (Rupees Six Lakhs and Ninety Three Thousand only) as compensation with interest at 7.5% p.a. from the date of petition to till the date of realisation. The details of the compensation awarded by the Tribunal are as follows:



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S.No.	Description	Amount
1.	Loss of dependency	Rs. 6,48,000/-
2.	Loss of love and affection	Rs. 20,000/-
3.	Funeral expenses and Transport	Rs. 25,000/-
	Total	Rs.6,93,000/-

Aggrieved by that award, the claimants have filed the present appeal seeking enhancement.

4. The learned counsel for the appellants / claimants has submitted that the Tribunal has awarded a very low and meagre sum of compensation. At the time of occurrence in the year 14.05.2015, the deceased namely Ravichandran alias Alex was working as a welder and earned Rs.20,000/- (Rupees Twenty Thousand only) per month. At the time of the accident, the deceased was 25 years old. The learned Counsel appearing for the appellants / claimants further submitted that the time of argument before the Tribunal the appellants proved the employment of deceased. The employer of the company namely P.W-4 Sahayaraj also examined before the Tribunal. Salary certificate also marked in Ex.P-8. But the Tribunal mechanically fixed the amount at Rs.6,000/- (Rupees Six Thousand only) as monthly income. Apart from that in the above said Rs.6,000/- (Rupees



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Six Thousand only), 50% was deducted for personal expenses, since he was bachelor. Unfortunately, the Tribunal did not add the future prospects of the deceased.

5. The learned Counsel appearing for the appellants/claimants further submitted that in case that the appellants having not filed the authentic document for income in respect of deceased as well as other related documents to prove the income of the deceased, the Apex Court as well as Madras High Court have repeatedly held that, regarding the persons working in unorganized sector while determining income the Tribunal shall follow certain factors as stated in the ***Syed Sadiq case 2014(1) TNMAC 495 (SC)***. Also the Hon'ble Division Bench of Madras High Court delivered a judgment in a similar issue reported in ***2019 (1) TNMAC page 54 (DB) High Court of Madras Andal Vs. Avinav Kannan and another***. The Madras High Court followed the Apex Court Judgment reported in Syed Sadiq case. The Madras High Court fixed the notional income to be increased corresponding to cost of living, prices of essential commodities and inflation. The Apex Court further considered cost of Inflation Index issued by Central Board of Direct Tax. Therefore, High



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Court evolved a formula for determining the notional income of the deceased.

6. Per contra, the learned counsel appearing for the respondent/ State Transport Corporation has submitted that the Tribunal had considered all the relevant materials and evidence on record and came to the right conclusion and awarded a just, fair and reasonable compensation. Hence, the order of the Tribunal is in accordance with law and the same has to be confirmed.

7. Heard the learned counsel on either side and perused the materials available on record. On the side of the claimants, five witnesses, P.W.1 to P.W.5 were examined and documents Ex.P1 to Ex.P10 were marked. On the side of the respondents, neither witness was examined nor document was marked.

8. After hearing rival submissions, I am inclined to modify the notional income as followed by the judgment in ***Syed Sadiq case 2014(1) TNMAC 495 (SC)***. In this case, considering the above formula, the income



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is as follows:

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Cost of inflation index for the year 2015-16 is 254.

$$\text{Therefore, income of the deceased} = \frac{\text{Rs.6,500} * 254}{129} = \text{Rs.12,798/-}$$

Rs.12,798 * 40% (deceased age below 40 years)

As per Pranay Sethi Constitution Bench Judgment in the year 2017

Add: For future prospects = Rs.5,119/-

Rs.12,798 + Rs.5,119 = Rs.17,917/-

Deduction for personal expenses of deceased (50%), since he was bachelor

$$\frac{\text{Rs.17,917} * 1}{2} = \text{Rs.8,958/-}$$

Rs.8,958 * 12 * 17 (multiplier) = Rs.18,27,432/- (Loss of income)

Other heads Rs.70,000/-

9. Considering all the above circumstances, the award passed by the Tribunal is modified as follows:



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S. No.	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced
1.	Loss of dependency	Rs. 6,48,000/-	Rs.18,27,432/-	enhanced
2.	Loss of love and affection	Rs. 20,000/-	Rs. 45,000/-	enhanced
3.	Funeral expenses and Transport	Rs. 25,000/-	Rs. 25,000/-	confirmed
	Total	Rs.6,93,000/-	Rs.18,97,432/-	Enhanced

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,93,000/- (Rupees Six Lakhs Ninety Three Thousand only) is hereby enhanced to Rs. 18,97,432/- (Rupees Eighteen Lakhs Ninety Seven Thousand Four Hundred and Thirty Two only). The claimants are entitled to get compensation, as per the apportionment made by the Tribunal.

11. The respondent/ State Transport Corporation is directed to deposit the enhanced compensation amount with accrued interest and costs to the credit of M.C.O.P.No.960 of 2015 on the file of the Special District Judge / Motor Accidents Claims Tribunal, Trichirappalli, within a period of



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eight weeks (8) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimants are permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. No costs.

08.01.2024

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

To

The Special District Judge /
Motor Accidents Claims Tribunal,
Trichirappalli.

Copy to

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



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L.VICTORIA GOWRI, J.,

Sml

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