

(1999) 06 MAD CK 0045
In the Madras High Court

Maruthi Bus Service and Another

APPELLANT

Vs

Sudha and Others

RESPONDENT

Date of Decision : 21-06-1999

Acts Referred:

Citation : (2000) 1 ACC 430 : (2000) 2 LW 684

Hon'ble Judges : M. Karpagavinayagam, J

Bench : Single Bench

Judgement

M. Karpagavinayagam, J.—M/s. Maruthi Bus Service and the National Insurance Company Limited are the appellants in this appeal.

2. The award, directing the second appellant, on behalf of the first appellant, to pay the compensation of Rs. 3,99,500/- as against the claim of total compensation of Rs. 5,00,000/-, is the subject matter of the challenge before this Court in this appeal.

3. On 3.4.1993, at about 2.00 p.m., Muthu @ Muthusami was riding on his cycle in Pattukkottai-Mannargudi Road and proceeding towards east, by keeping his left. When he was nearing Paddappaikadu village, the bus belonging to the first appellant's Bus Service bearing Registration No. TN-55-4585 came towards east at a very high speed. When the deceased was going on his left side of the road, the bus, driven in a rash and negligent manner, hit against the cyclist. Due to the impact, the said Muthusami was thrown out. The cycle also got damaged fully. Though the victim-deceased was taken to the hospital and was given treatment, he died later due to the grievous injuries sustained by him.

4. There are six dependents to the deceased. They filed an application before the Tribunal, seeking compensation of Rs. 5,00,000/-. This claim was resisted by the appellants through counter stating that the driver was not negligent and the claim of compensation account is very high. However, no witness was examined on behalf of appellants.

5. Taking into consideration the materials placed before the Tribunal, it was

concluded that the accident took place only due to the negligence of the driver of the bus and that the claimants would be entitled to the compensation of Rs. 3,99,500/-.

6. Mainly, aggrieved over the quantum, the appellants have approached this Court by stating that the assessment of the damages has not been done in consonance with the settled principles of law, and that adopting the multiplier of 42 years is illegal.

7. I heard Mr. Section Arunkumar, the learned Counsel appearing for appellants and Mr. V. Kuberan, learned Counsel for respondents and perused the records.

8. Mr. Arunkumar, learned Counsel for the appellants would cite two authorities viz., U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, and 1996 2 L.W. 9 Smt. Sarala Dixit and Anr. v. Balwant Yadav and Ors. in order to bring to light the details regarding the method of computation for the proper assessment of compensation.

9. On the other hand, Mr. Kuberan, learned Counsel appearing for claimants, respondents herein, contended that the quantum fixed by the Tribunal is proper and it cannot be said that it is on the higher side.

10. As regards the negligence, there is no dispute over the finding rendered by the Tribunal, though incidentally grounds have been raised in the Memorandum of Appeal. Moreover, on the side of the appellants, no witness was examined nor any document was filed to prove the case of the appellants, either with reference to the negligence or quantum.

11. The grievance expressed by the Counsel for Insurance Company is that the award of Rs. 3,99,500/- as compensation is without any basis and fixing of the monthly income at Rs. 750/-, without any deduction for personal expenses of the deceased, is improper and at any rate, the adopting of 42 years of multiplier is against the ruling of the Supreme Court.

12. The deceased was aged about 28 years. He was a Tailor, earning about Rs. 2,000/- per month. The first claimant is the wife of the deceased. The second claimant is son, third claimant is mother, fourth claimant is brother, fifth and sixth claimants are sisters of the deceased.

13. The evidence adduced in this case would show that the victim was admitted in the hospital on 3.4.1993 and he died in the hospital itself on 17.4.1993. The first claimant is the young wife, and only DA years back, she got married to the deceased. The second claimant is the son of one year old. The father of the deceased died two years back and, therefore, claimants 4 to 6 have also become the dependents on the deceased.

14. The Tribunal fixed the monthly income of the deceased as Rs. 750/- and adopted the 42 years as multiplier. The total amount of calculation comes to Rs. 3,78,000/-. According to the Tribunal, the amount of Rs. 1,000/- towards the

medical expenses, Rs. 500/- towards the damages to the cycle, Rs. 5,000/- towards the funeral expenses, Rs. 15,000/- towards the loss of consortium and love and affection and the total amount of all the above heads come to Rs. 21,500/-. Ultimately, the Tribunal held that the claimants would be entitled to the total amount of compensation of Rs. 3,99,500/- and directed the Insurance Company to pay the amount on behalf of the Bus Service.

15. In the decision reported in *U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others*, , the Apex Court has laid down the basic principles governing the assessment of compensation, emerging from the various legal authorities rendered earlier, and reiterated that the multiplier method is the sound method of assessment of compensation. The multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and multiplying the multiplicand by an appropriate multiplier. The choice of the multiplier is determined by the age of the deceased or that of the claimants, whichever is higher.

16. In the instant case, the age of the deceased was 28. The claimants, except the mother of the deceased, are all younger to the deceased. The Supreme Court suggested that instead of calculating the damages on the basis of longevity and discounting time amounts on various imponderables which would be complicated and cumbersome, it would be better to follow the second schedule given in the Act, i.e., the Motor Vehicles Act, 1988, giving the table and fixing the mode of calculation of compensation for various age groups. According to this table, the multiplier varies from 5 to 18, depending on the age group to which the victim belongs. Thus, under the schedule, the maximum multiplier would be 18. Therefore, as correctly pointed out by the learned Counsel for appellants, adopting the multiplier of 42 on the basis of the longevity theory, may not be proper in the instant case.

17. However, it is noticed in the present case that the monthly income of the deceased has been fixed by the Tribunal Rs 750/-. This finding may not be correct in view of the fact that P.W. 1 had stated that the deceased used to get Rs. 2,000/- per month. If Rs. 500/- is deducted for his personal expenses, the balance amount of Rs. 1,500/- would have been definitely given, to the family by the deceased, because it contains six dependents.

18. If we make a calculation on the basis of the said figure, i.e., Rs. 1,500 A per month and adopting the multiplier of 18, the total loss of dependency would work out to Rs. 3,24,000/-. If we add the additional amount towards the various heads like loss of consortium, loss of love and affection and loss of companionship, loss of happiness, loss of expectancy of life, transport charges, medical expenses, funeral expenses, damage to the cycle etc., then the total calculation comes to near about the similar figure arrived at by the Tribunal.

19. The Apex Court, in the decision reported in *U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others*, , in a similar matter,

holding that the multiplier of 34 was wrong, and maintained the compensation amount by adding some more amount without disturbing the figure arrived at by the Tribunal. The following is the relevant observation:

19. We had indicated we would not interfere with the amount awarded, since in our view, while the multiplier used is excessive, we are satisfied that a very low multiplicand was used as the loss of dependency. If we were to correct the multiplicand and use the correct multiplier, the compensation would work out to near about the same figure. Therefore, while agreeing with the learned Advocate for the appellant, we are disinclined to interfere with the figure of compensation. We, therefore, hold that the Tribunal/ Court fell into an error in the choice of the multiplier and allow the appeal to that extent but we do not, in the circumstances of the case, interfere with the quantum of compensation.

20. In view of the above discussion and having regard to the facts and circumstances of the case, though the adoption of multiplier by the Tribunal is wrong, I do not think that the figure of the compensation, arrived at by the Tribunal, can be said to be exorbitant.

21. In the result, the appeal is dismissed. No costs.