

(1989) 03 MAD CK 0068
In the Madras High Court

Vembuli and Another

APPELLANT

Vs

Managing Director Pallavan Transport Corporation (Metro)
Ltd.

RESPONDENT

Date of Decision : 22-03-1989

Acts Referred:

Citation : (1989) 2 ACC 276

Hon'ble Judges : Padmini Jesudurai, J

Bench : Single Bench

Judgement

Padmini Jesudurai, J.—The parents of the victim of a Motor Accident have filed the present appeal contending that, the amount of compensation awarded to them by the Tribunal is grossly inadequate.

2. On 30-8-1981, Sekar, the son of the appellants herein aged 16 and studying in the X standard was knocked down dead by a bus No. TMN 752 belonging to the respondent herein. The bus was driven in a rash and negligent manner. The appellants filed M.O.P. No. 318 of 1981 before the Motor Accidents claims Tribunal, (Sub Judge) Chengalpattu claiming a compensation of Rs. 30,000/-.

3. The respondent resisted the claim on the ground that the accident was due to the negligence of the deceased boy, in suddenly crossing the road and that driver was neither rash nor negligent. The quantum of compensation claimed was also excessive. Before the Tribunal the father of the deceased boy, the second appellant herein, examined himself as PW 1 and he examined an eyewitness to the occurrence as PW 2. Exs. A-1 to A-3 were marked on their side. On behalf of the respondent the conductor of the vehicle was examined as RW 1. They had no documentary evidence to offer. The Tribunal on the above material found that the accident was solely due to the rashness and negligence of the driver of the bus, and assessed the compensation at Rs. 10,000/- and passed an award in favour of the appellants for the above amount. Contending that the amount is grossly inadequate, the present appeal has been filed by the claimants.

4. Thiru A.N. Viswanatha Rao, learned Counsel for the appellants contended that the Tribunal had not adopted any basis for arriving at the figure awarded and that the deceased being the elder son in the family would have taken care of his parents, who were only labourers and that therefore a higher compensation ought to have been awarded considering these facts. Learned Counsel also contended that the monthly dependency ought to have been fixed by the Tribunal and compensation ought to have been awarded for loss of expectation of life as well. Reliance was placed upon several decisions in which higher compensation had been awarded for the death of boys of the same age group.

5. Per contra, Thitu P. Sadhasivam, learned Counsel for the respondent contended that since the boy is aged 16 the imponderables that would come in while assessing the compensation are too many and the Tribunal therefore had taken into consideration all the possible circumstances and had awarded a lump sum of Rs. 10,000/- which cannot be described as grossly inadequate.

6. The deceased was aged 16 years at the time of his death. He was a student in the X standard. He was the elder among the two sons of the appellants. It is true while determining the compensation for death of children aged 16 years the uncertainties and imponderables are comparatively higher. However, courts by practice have adopted certain principles for awarding compensation even in the cases of death of children of tender age. The first appellant was aged 48 and the second appellant 50 at the time of the death. Even though, the appellants are coolies and are totally uneducated, they had taken pains to have their son educated. He was in the X standard at the age of 16. We could, therefore, expect that the parents should have taken special pains and interest in the education of their son though they themselves were totally illiterate and would have continued to evince the same interest in the education of their son. We could normally expect that the deceased would have started earning at the age of 22. The first appellant by then would be 54 and the second appellant 56. It is true that the deceased would have married after some time, after which his contribution to his parents would be comparatively less. The appellants belong to the labouring class and a time would come, when they would not be able to maintain themselves out of manual labour and would have to fall back upon their home for food and shelter. The deceased was the elder of the two sons. Even if in later years the deceased was not able to contribute financially to his parents yet he would have given them food and shelter till the end of their lives. This dependency could be assessed at Rs. 100/- per month. A multiplier of 12 would be reasonable in view of the age of the appellants. The dependency, therefore, is assessed at Rs. 14,400/-. Awarding a sum of Rs. 5,000/- for loss of expectation of life is conventional. Totalling up, I feel that a sum of Rs. 19,400/- which could be rounded off as Rs. 19,000/- would be a just and fair compensation to the appellants.

7. In the result, the compensation of Rs. 10,000/- awarded by the Tribunal is enhanced to Rs. 19,000/- for which interest at the rate of 6% per annum for the

enhanced amount of Rs. 9000/- from the date of the filing of the petition, namely, 9-7-1981 till the date of deposit will also be payable. The appeal is allowed to this extent. There will be no order as to costs.