

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2015

Coram:

The Hon'ble Mr. Justice N.KIRUBAKARAN

C.M.A.No.824 of 2015

P.Muniyamma

... Appellant / Petitioner

vs

The Managing Director,
Metropolitan Transport Corpn., Ltd.,
Anna Salai, Chennai - 2. ... Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the judgment and decree dated 27.09.2012 made in MCOP No.371 of 2008 on the file of the Motor Accident Claims Tribunal, XVI Additional Sessions Court, Madras.

For Appellant : Mr.T.G.Ravichandran

For Respondent : Mr.K.S.Suresh

J U D G M E N T

The appeal has been preferred by the mother of the deceased aggrieved over the quantum of compensation awarded by the tribunal for the death of her son Sakthivel who died in the accident occurred on 27.12.2007.

2. Heard Mr.T.G.Ravichandran, learned counsel appearing for the appellant and Mr.K.S.Suresh, learned counsel appearing for the respondent.

3. The tribunal awarded a sum of Rs.3,40,000/- as compensation taking into consideration Rs.5,000/- as the monthly income of the deceased, even though there is no document produced to prove the claim of Rs.6,000/- per month as salary, alleged to have earned by the deceased as a security guard. The tribunal deducted 1/3rd towards personal expenses and applying multiplier 12 according to the age of the mother of the deceased, awarded a sum of Rs.3,20,000/- as loss of income to the family alongwith other pecuniary benefits to the tune of Rs.20,000/-, totaling the compensation to Rs.3,40,000/-.

4. In the considered view of this court, Rs.5,000/- taken by the tribunal as monthly income, in the absence of any documentary

evidence cannot be said to be on the higher side. In the year 2007 also, it should have been impossible to get a manual labour for a sum of Rs.5000/- per month. Therefore, the said determination cannot be found fault with. However, no future prospects has been added as per the judgment of Sarla Verma & Ors vs Delhi Transport Corpn. reported in 2009 (2) TANMAC 1. As per the said judgment, for the age of 38 years, 50% is required to be added towards future prospects. Thus, if 50% is added to Rs.5,000/-, the loss of monthly income would be Rs.7500/- (Rs.5000 +50%).

5. The tribunal deducted only 1/3rd towards personal expenses. However, since the deceased was a bachelor, 50% has to be deducted towards personal expenses. As rightly pointed out by the learned counsel for the appellant/claimant, the age of the deceased alone has to be taken into consideration for adopting the multiplier. As the deceased was aged 38 years at the time of accident, the appropriate multiplier would be 15. Thus, the loss of income is calculated as follows -

$$\text{Rs.5000} + 50\% = 7500 - 50\% = 3750 \times 12 \times 15 = \text{Rs.6,75,000/-}$$

6. The amount of Rs.10,000/- awarded by the tribunal towards loss of love & affection is very low and the same is enhanced to Rs.25,000/-. However, Rs.10,000/- awarded towards funeral expenses is very fair and therefore the same is confirmed. Thus, the award of Rs.3,40,000/- awarded by the tribunal is hereby enhanced to Rs.7,10,000/-, break-up as follows -

(1) Loss of income	...	Rs.6,75,000/-
(2) Loss of love & affection	Rs.	25,000/-
(3) Funeral expenses	...	Rs. 10,000/-

Total	...	Rs.7,10,000/-
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The rate of interest awarded by the tribunal @ 7.5% remains unaltered.

7. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

8. It is represented by the learned counsel for the respondent/transport corporation that the insurance company had already deposited the entire amount awarded by the tribunal. Therefore, the respondent/transport corporation is directed to deposit the enhanced award amount alongwith interest and costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the same, after adjusting the amount already withdrawn, if any.

9. The learned counsel for the appellants/claimants is directed to pay the requisite court fee for the enhanced compensation within a period of ten days from the date of receipt of a copy of this order.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1. The XVI Additional Sessions Judge
Motor Accident Claims Tribunal,
Chennai.

2. P. Muniyamma
W.o. Ponnusamy (Late)
75/2 Block Nochi Nagar
Light House
Mylapore, Chennai-4
(to pay court fee)

1 cc to Mr.T.G.Ravichandran, Advocate, Sr. 27924
1 cc to Mr.K.S.Suresh, Advocate, Sr. 27737

C.M.A.No.824 of 2015

TS (CO)
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