

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.12.2016

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.1663 of 2014

and

C.M.P.No.18221 of 2016

1. Vimala

2.Chandrasekar

.. Appellants / Petitioners

Versus

Metropolitan Transport Corporation

(Chennai Division-I) Ltd.,

rep. by its Managing Director,

Anna Salai, Pallavan House,

Chennai-01.

.. Respondents/Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 as against the decree and judgment dated 28.11.2013 made in M.C.O.P.No.495 of 2011 on the file of Motor Accident Claims Tribunal, (IV Small Causes Court) Chennai.

For appellant : Mr.K.Varadha Kamaraj

For respondent : Mr.S.Sivakumar

J U D G M E N T

Seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, (IV Small Causes Court) Chennai, on 28.11.2013, in M.C.O.P.No.495 of 2011, this Civil Miscellaneous appeal has been filed by the claimants.

Brief Facts:

On 29.11.2010, at about 23.10 hours, while the deceased Abilash was riding "Scooty pep +" bearing Reg.No.TN-25-T-1813 at Anna Main Road from east to west direction in K.K.Nagar and at the junction of Kamaraj Salai, Opposite to E.S.I. Hospital, while the deceased was running towards north, the MTC bus bearing No.TN 01 N 4382 came in a rash and negligent manner in the said road from behind had knocked down the deceased. The parents of the claimants have filed this claim petition for compensation claiming a sum of Rs.20,00,000/-.

2. The Claims Tribunal, on considering the oral and documentary evidence, has quantified the compensation, which is detailed hereunder:

Pecuniary loss (Rs.5000x12x15)	: Rs.9,00,000/-
Loss of Love and affection to the petitioners	: Rs. 50,000/-
Funeral expenses	: Rs. 10,000/-

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Rs,9,60,000/-

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3. The Tribunal considering the fact that the deceased had been studying B.E.Mechanical Engineering at Easwari Engineering College and also considering the age of the deceased was only 21 years at the time of accident and the first petitioner who was the mother was aged only 43 years, has applied the multiplier of 15, for calculating the pecuniary loss.

4. The learned counsel for the appellants would submit that even if the parents are claimants, the multiplier has to be chosen by taking into account the age of the deceased and not the age of the parents. If the age of the deceased is taken into account, the proper multiplier would be 18, as per the decision of the Hon'ble Supreme Court in SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER reported in (2009) 4 MLJ 997.

5. A perusal of the award would show that the multiplier has been chosen taking into account the age of the parents of the deceased, but not the age of the deceased. Therefore, it has given opportunity for the claimant to challenge the award. Even if the Claims Tribunal has taken the income of the deceased at Rs.8,000/-, the future prospective increase in the income ought to have been considered. If the monthly income is taken at Rs.12,000/- and after deduction of 50% towards personal expenses, the monthly dependency would be Rs.6,000/- and by adopting multiplier of 16, the compensation awarded under the head "Pecuniary Loss" would be Rs.12,96,000/- (6000 X18) and accordingly the amount awarded towards "Pecuniary Loss" is enhanced from Rs.9,00,000/- to Rs.12,96,000/-. The compensation under the head "Love and Affection" is enhanced from Rs.50,000/- to Rs.1,00,000/- and the "Funeral Expenses" is enhanced from 10,000/- to Rs.25,000/-. Hence, the compensation is enhanced to Rs.14,21,000/-, payable with interest @ 7.5% from the date of petition till the date of deposit.

6. In the result, this Civil Miscellaneous Appeal is allowed, enhancing the quantum of compensation from Rs.9,60,000/- to Rs.14,21,000/- which is payable with interest as stated supra, within a period of eight weeks from the date of receipt of a copy of this Judgment.

7. It is represented that already the Transport Corporation has deposited the compensation awarded by the Claims Tribunal. Hence, the balance amount of compensation shall be deposited within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw their share of the amount as per the apportionment made by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Metropolitan Transport Corporation
(Chennai Division-I) Ltd.,
rep. by its Managing Director,
Anna Salai, Pallavan House,
Chennai-01
2. The Motor Accident Claims Tribunal,
(IV Small Causes Court) Chennai.
3. The Section Officer, VR Section,
High Court, Madras.

+2cc to M/S.V.Mohan Choudary, Advocate Sr. 73752

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GP(CO)
VR(26/10/2017)