

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.07.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.M.A.No.3308 of 2012

- 1) Vasantha
- 2) Rani
- 3) Dhanasekaran
- 4) Durga
- 5) Ramu

... Appellants/Claimants

Vs.

- 1) Rajendiran
- 2) The Managing Director
Tamilnadu State Express Transport
Corporation Ltd.,
Anna Salai
Chennai - 600 002

... Respondents 1&2/Respondents 1&2

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree of the learned Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court No.V), Chengalpattu at Tiruvallur made in M.C.O.P.No.836 of 2003 dated 30.11.2005.

For Appellants : Mr.A.K.Raghavulu

For Respondents : Mr.K.J.Sivakumar for R2
: R1 - Notice Dispensed with

JUDGMENT

Having been not satisfied with the quantum of award passed by the Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court No.V, Chengalpattu), Tiruvallur, the claimants have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 seeking enhancement of compensation.

2. The appellants are the wife, daughters and sons of the deceased Gurusamy. As it is revealed from the records that on 10.05.2003, at about 04.00 hours, a passenger bus bearing Registration No.TN07-N-9401 belonging to the second respondent's Transport Corporation had hit against the deceased Gurusamy when he was proceeding with a four wheeler Tralley.

3. According to the claimants, the deceased was doing the business of selling aluminium vessels and thereby earned a sum of Rs.5,000/- per mensem. The claims Tribunal had determined the age of the deceased as 50 years at the relevant point of time. His monthly income was determined by the Tribunal at Rs.2000/- as against the claim of the claimants of Rs.5000/-. Since the deceased was aged about 50 years, the multiplier of 11 was selected by the Tribunal. Accordingly, deducting 1/3rd towards the personal and living expenses of the deceased, the Tribunal had fixed the pecuniary loss of the family at Rs.1,76,000/-. Apart from this, the Tribunal had also awarded the following compensation under various heads:

Towards Funeral Expenses	: Rs.2000/-
Towards loss of consortium to the appellant	: Rs.5000/-
Towards loss of estate	: Rs.2500/-

Totally a sum of Rs.1,85,500/- was awarded by the Tribunal as compensation.

4. Mr.A.K.Raghavulu, learned counsel appearing for the appellants, has submitted that the Claims Tribunal had not determined the monthly income of the deceased as per the daily wages which was prevailing at the relevant point of time. He has also contended that since the deceased was aged about 50 years, the appropriate multiplier would be 13 and that the Tribunal had failed to consider this aspect.

5. The learned counsel for the appellants further contended that since the first appellant was aged about 45 years at the time of death of her husband, a sum of Rs.5,000/- granted by the Tribunal towards loss of consortium is very much low and it must necessarily be increased. He has also submitted that the Tribunal had not awarded any amount towards loss of love and affection to the appellants 2 to 5 and hence, this Court might award a reasonable amount towards loss of love and affection.

6. This Court has considered the submissions made by Mr.A.K.Raghavulu, learned counsel for the appellants and Mr.K.J.Sivakumar, learned counsel for the second respondent and also perused the award passed by the Tribunal.

7. Keeping in view of the above fact, this Court finds that the monthly income of the deceased, which was determined by the Tribunal at Rs.2,000/-, is very much low and as per the judicial pronouncements of the Hon'ble Supreme Court and various High Courts, it is appropriate to fix the income of the deceased at Rs.4500/- as the accident was taken place in the year 2003. The annual dependency of the family would be Rs.54,000/- (Rs.4500/- *12). After deducting 1/3rd towards personal and living expenses of the deceased, the 2/3 remainder would be Rs.36,000/-. Since the deceased was aged about 50 years, the appropriate multiplier would be 13 and on application this multiplier, the pecuniary loss of the family is arrived at Rs.4,68,000/- (Rs.36,000/- x 13).

8. Since the first appellant being the widow of the deceased, aged about 45 years, a sum of Rs.30,000/- can be granted to her towards loss of consortium. Accordingly, a sum of Rs.30,000/- is granted under the head loss of consortium. Since the appellants 2 to 5 have lost their father, this Court is of the view that a sum of Rs.10,000/- each can be granted towards loss of love and affection. Accordingly, a sum of Rs.40,000/- is awarded towards loss of love and affection (Rs.10,000/- each to respondents 2 to 5). A sum of Rs.2000/- awarded by the Tribunal towards funeral expenses is low and the same is hereby increased to Rs.5000/- and another sum of Rs.5,000/- is awarded towards Transportation. A sum of Rs.2500/- granted by the Tribunal under the head of loss of estate is confirmed. Considering the nature of the claim as well as the submissions made by both the learned counsels, the award of the Tribunal is enhanced as under:

Pecuniary Loss	:	Rs.4,68,000/-
Loss of Consortium	:	Rs. 30,000/-
Loss of Love and Affection:	Rs. 40,000/-	
Funeral Expenses	:	Rs. 5,000/-
Transportation	:	Rs. 5,000/-
Loss of Estate	:	Rs. 2,500/-
Total		-----
		Rs.5,50,500/-

Accordingly, the award of the Claims Tribunal to the extent of 1,85,500/- is hereby increased to Rs.5,50,500/-. Out of Rs.5,50,000/- the first appellant is entitled to get Rs.2,50,000/- and appellants 2 to 5 are entitled to get a sum of Rs.75,000/- each. The second respondent Transport Corporation is directed to deposit the enhanced amount of compensation, less the amount already deposited, if any along with interest at the rate of 7.5% from the date of petition till the date of realization within a period of four weeks from the date of

receipt of a copy of this order. On such deposit being made, the appellants are permitted to withdraw their respective shares without actually filing any formal application. No costs. The appellants/claimants are directed to pay the requisite court fee for the enhanced amount of Rs.3,65,000/-.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Additional District Judge,
Fast Track Court No.V),
Motor Accidents Claims Tribunal,
Tiruvallur.
2. The Managing Director
Tamilnadu State Express Transport
Corporation Ltd.,
Anna Salai
Chennai - 600 002

1 cc to Mr.K.J.Sivakumar, Advocate, sr.41617

1 cc to M/s.A.K.Raghavalu, Advocate, sr.41409(16.09.2016)

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