

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2017

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THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

**Cross Objection No.75 of 2012
in C.M.A.No.3684 of 2011**

1.G.Kaveri

2.G.Rajeswari

3.G.Ravikumar

4.Usha Rani

... Cross Objectors

vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram.

... Respondent

Cross Objection has been filed under Order XLI Rule 22 of CPC against the judgment and decree dated 18.10.2010 made in M.C.O.P.No.2829 of 2007 on the file of the Motor Accidents Claims Tribunal(Small Causes Court No.II), Chennai.

For Cross Objectors : Mr.V.Mohan Choudary

For respondent : No Appearance

JUDGMENT

This Cross Objection has been filed against the judgment and decree dated 18.10.2010 made in M.C.O.P.No.2829 of 2007 on the file of the Motor Accidents Claims Tribunal(Small Causes Court No.II), Chennai.

2. On the application filed by the cross objectors/claimants, the Tribunal, after perusing the oral and documentary evidence adduced on the side of the claimants, awarded a sum of Rs.6,23,000/- towards compensation to the claimants. Aggrieved against the said award passed by the Tribunal, the Cross Objectors/claimants had preferred this Cross Objection before this Court seeking for enhancement of compensation.

3. The learned counsel for the cross objectors would mainly contend that the Tribunal ought to have fixed the income of the deceased at Rs.10,000/- per month as per the evidence adduced on the

side of the claimants. Further, the Tribunal wrongly deducted 1/3rd of the income of deceased towards personal expenses and 1/4 has to be deducted from the income of the deceased towards personal expenses.

4. The learned counsel for the cross objectors would further contend that the Tribunal has not awarded proper amount under the other heads. Hence, the compensation awarded by the Tribunal has to be enhanced as prayed for in the petition.

5. Even though notice was served on the respondent/Transport Corporation and its name was also printed in the cause list, it has not chosen to appear before this Court either in person or through counsel.

6. The civil miscellaneous appeal in C.M.A.No.3684 of 2011 filed by the respondent/Tamil Nadu State Transport Corporation Limited was dismissed for non prosecution on 10.03.2017.

7. This Court has considered the submissions made by the

learned counsel appearing for the cross objector and perused the entire records.

8. In this case, on the application filed by the claimants, the Tribunal, after considering the entire evidence and documents, awarded total compensation of Rs.6,23,000/-.

9. It is seen from the records that the Tribunal, as per the evidence adduced on the side of the claimants, rightly fixed the monthly income of the deceased at Rs.4,500/-. Considering the evidence available on record, this Court is of the view that the trial Court correctly fixed the income of the deceased at Rs.4,500/- p.m.

10. In so far as the deduction is concerned, in this case, admittedly, there are four claimants in the petition. As per the settled principles of law, if the claimants are four in number, $\frac{1}{4}$ of the income of the deceased has to be deducted towards personal expenses but, the Tribunal, deducted $\frac{1}{3}$ rd amount from the income of the deceased.

Therefore, this Court is of the view that as the claimants are four in number, the personal income of the deceased has to be deducted at $1/4$ from the income of the deceased.

11. However, the Tribunal considering the age of the deceased as 54 years, rightly adopted multiplier as 11 as per the settled principles. Accordingly, the pecuniary loss to the family is Rs.3,375/- p.m. ($\text{Rs.4,500} \times (1-1/4) = \text{Rs.3,375/-}$). Hence, the Pecuniary loss is arrived at Rs.4,45,500/- ($\text{Rs.3,375/-} \times 12 \times 11 = \text{Rs.4,45,500/-}$).

12. The Tribunal awarded a sum of Rs.10,000/- each to the appellants towards loss of Love and affection, totalling to Rs.40,000/-. Considering the facts and circumstances of the case, the amount of Rs.40,000/- awarded towards Love and affection is just and proper.

13. Further, the Tribunal awarded only a meagre sum of Rs.5,000/- towards Loss of Consortium. Hence the same is enhanced

to Rs.15,000/-. The Tribunal also awarded only a sum of Rs.5,000/- towards Funeral Expenses and the same is enhanced to Rs.10,000/-.

14. For Medical expenses, the Tribunal further awarded a sum of Rs.1,77,000/- as per the documents. Therefore, there is no need to enhance the amount awarded under this head.

15. Considering the above, this Court is of the considered view that the compensation awarded by the Tribunal is enhanced to Rs. 6,87,500/- from Rs.6,23,000/- and the same reads as follows:

Sl. Nos.	Heads	Amount awarded by the Tribunal	Amount granted by this Court
1.	Pecuniary Loss	Rs. 3,96,000/-	Rs. 4,45,500/-
2.	Loss of love and affection	Rs. 40,000/-	Rs. 40,000/-
3.	Loss of consortium	Rs. 5,000/-	Rs. 15,000/-
4.	Medical expenses	Rs. 1,77,000/-	Rs. 1,77,000/-
5.	Funeral Expenses	Rs. 5,000/-	Rs. 10,000/-
	Total	Rs. 6,23,000/-	Rs. 6,87,500/-

16. In the result, the Cross Objection in Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is enhanced to Rs.6,87,500/- from Rs.6,23,000/-. The respondent/Transport Corporation is directed to deposit the entire modified enhanced amount from the date of petition till the date of payment, less the amount already deposited, if any, with interest at 7.5% per annum, within a period of eight weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.2829 of 2007 on the file of the Motor Accidents Claims Tribunal(Court of Small Causes No.II), Chennai. On such deposit, the cross objectors/claimants are permitted to withdraw their respective shares of modified award amount as apportioned by the Tribunal on due application. No costs. The claimants shall pay necessary Court fee, if any on the enhanced compensation amount.

21.03.2017

Index:Yes/No
Internet:Yes/No
cla

To

1.The Motor Accident Claims Tribunal,
Small Causes Court No.II,
Chennai.

2.The Record Keeper,
V.R. Section,
High Court of Madras.

G.CHOCJALINGAM, J

cla

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