

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal Nos.203 and 1082 of 2013

1.V.Kiranmai,
W/o.C.Manikandan.

2.Minor.M.Harishini
D/o.C.Manikandan,
(minor represented by her mother and
next friend V.Kiranmai)

3.G.Suseela
W/o.K.Chandran

4.K.Chandran
S/o.K.Kunju Kuttan

..Appellants
in CMA.No.203 of 2013
..Respondents
in CMA.No.1082 of 2013

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 2.

... Respondent
in CMA.No.203 of 2013
.. Appellant
in CMA.No.1082 of 2013

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Common Prayer:Civil Miscellaneous Appeals filed u/s.173 of Motor Vehicles Act, 1988, against the judgment and Decree passed by the Motor Accident Claims Tribunal, XV Additional Judge, City Civil Court, Chennai, made in M.C.O.P.No.2796 of 2009 on 13.08.2012.

For Appellants/Respondents :Mr.Suriyanarayanan
in CMA 1082/13 in CMA 203/13 for Mr.Vasanthakumar

For Respondent/Appellant
in CMA 1082/13 in CMA 203/13 :Mr.Sivakumar
for Mr.S.Ravikumar

J U D G M E N T

[Judgment of the Court was made by C.T.SELVAM, J.]

These two appeals arise against the judgment of learned XV Additional Judge, Chennai, passed in M.C.O.P.No.2796 of 2009 on 13.08.2012.

2. Appellants in C.M.A.No.203 of 2013 are claimants. Appellants are wife, minor daughter and parents of deceased. Respondent in C.M.A.No.203 of 2013 is a Transport Corporation. On 24.07.2009 at about 21.25 hours, while deceased was riding a two-wheeler, a bus bearing registration No.TN-01-N-8120 belonging to respondent transport corporation, driven in a rash and negligent manner, dashed against him, owing to which deceased was thrown out of the vehicle and was run over by the wheels of the bus.

3. Before Tribunal, claimants have examined 3 witnesses and marked 13 exhibits. One witness was examined on the side of appellant transport corporation and no exhibits were marked. On appreciation of materials before it, Tribunal, under judgment dated 13.08.2012, found that the death has occurred owing to rash and negligent driving of the bus. To prove the avocation of deceased, respondents 1 to 4 have marked Ex.P8, service and salary certificate of deceased and on the basis of the same, Tribunal has fixed the monthly income of deceased at Rs.12,000/-. Tribunal had deducted 1/3rd towards personal expenses, fixed the monthly income at Rs.8,000/- and annual income at Rs.96,000/-, applied multiplier 17 and arrived at loss of income at Rs.16,32,000/- [96,000*17]. This Court finds that a reasonable sum of Rs.5,000/- towards funeral expenses, Rs.50,000/- towards loss of consortium and Rs.75,000/- towards loss of love and affection has been awarded. The total compensation has been arrived at Rs.17,62,000/-. Appellant Transport Corporation was directed to pay such sum together with interest at 7.5% p.a. from the date of claim petition till the date of payment. The Tribunal has also directed due apportionment of the compensation amount between claimants inter

alia directing deposit of a portion of the share of claimants in a nationalised bank for a period of three years.

4. Seeking enhancement of compensation, claimants have preferred C.M.A.No.203 of 2013. Challenging the quantum of compensation, transport corporation has preferred C.M.A.No.1082 of 2013.

5. Heard learned counsel for appellants/claimants and learned counsel for respondent Transport Corporation.

6. Learned counsel for claimants submitted that the employer has been examined as P.W.3 and he has informed the monthly salary of the victim as Rs.12,000/- p.m. Accepting such evidence and Ex.P8, Service and Salary Certificate of deceased, Tribunal has fixed his monthly income at Rs.12,000/-. Learned counsel contended that future prospectus of the deceased ought to have been calculated at 40% since the deceased was aged 34.

7. Learned counsel for respondent Transport Corporation submitted that even as per the very claim, claimants have informed that the monthly salary of the deceased was Rs.10,000/-. Learned counsel also contended that making a provision of 30% towards future prospectus would be appropriate. Learned counsel further submitted that the appropriate multiplier is 16 and not 17 as held by the Tribunal.

8. Considering the rival submissions and taking into consideration that even as per the claim, it has been informed that the deceased was earning Rs.10,000/- per month, this Court considers it appropriate to fix the monthly income of the deceased at Rs.10,000/- as the deceased was aged 34, his future prospectus is to be fixed at 40%. We accept the contention of learned counsel for respondent transport corporation that the appropriate multiplier is '16'. We consider it appropriate to award a sum of Rs.10,000/- towards transportation and Rs.15,000/- towards loss of estate and enhance the amount awarded under the head funeral expenses to Rs.15,000/-. Accordingly, the award is modified as follows:

Sl.No	Head	Amount awarded to be modified (in Rs.)
1	Pecuniary Loss [(10,000 + 40% = 14,000) - 3,500 x 12 x 16]	20,16,000/-
2	Loss of love and affection	75,000/-
3	Loss of consortium	50,000/-
4	Loss of Estate	15,000/-
5	Funeral Expenses	15,000/-
6	Transportation to Hospital	10,000/-
	Total	21,81,000/-

The enhanced sum of Rs.21,81,000/- is to be paid together with interest at 7.5% p.a. from the date of claim petition till the date of deposit.

9. In the result,

i. C.M.A.No.203 of 2013 is partly allowed. The compensation awarded by tribunal is enhanced to Rs.21,81,000/-. Respondent Transport Corporation is directed to deposit the enhanced award amount, less that already deposited, within a period of six weeks from the date of receipt of this judgment. Appellants/claimants are at liberty to withdraw the amount on due application as apportioned by tribunal.

ii. C.M.A.No.1082 of 2013 is dismissed.

iii. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

rm/gm

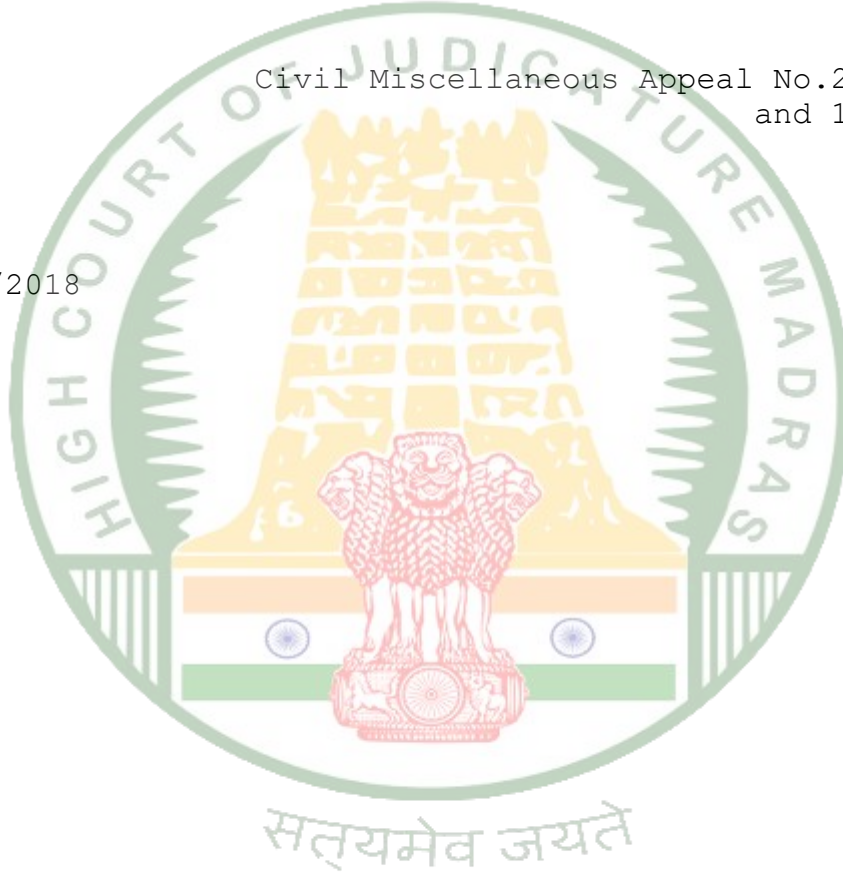
To

The XV Additional Judge,
Motor Accident Claims Tribunal,
Chennai.

+2cc to Mr.S.Ravikumar, Advocate Sr.82098, 82099

Civil Miscellaneous Appeal No.203 of 2013
and 1082 of 2013

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