

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Civil Miscellaneous Appeal No.3773 of 2012

1.S.Indira
2.B.Sivaji

.. Appellants

Vs

Metropolitan Transport Corporation
[Chennai Division] Ltd.,
represented by its
Managing Director, Pallavan Salai,
Chennai - 600 002.

.. Respondent

Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment of learned Additional District cum Sessions Judge, I Fast Track Court, Motor Accident Claims Tribunal, Chennai, passed in M.A.C.T.O.P.No.2990 of 2008 on 24.11.2011.

For Appellants : Mr.N.M.Muthurajan
For Respondent : Mr.K.Natarajan

J U D G M E N T

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

This appeal arises against the judgment of learned Additional District cum Sessions Judge, I Fast Track Court, Motor Accident Claims Tribunal, Chennai, passed in M.A.C.T.O.P.No.2990 of 2008 on 24.11.2011.

2. Appellants are claimants. Respondent is the transport corporation. On 19.05.2008 at about 17.00 hours, while appellant was riding his motorcycle, a bus bearing registration No.TN-01-N-4107 belonging to respondent transport corporation hit the motorcycle from behind resulting in head injuries and instantaneous death. Appellants sought compensation in a sum of Rs.30,00,000/-.

3. Before the Tribunal, on the side of

appellants/claimants, 3 witnesses were examined and 12 exhibits were marked. One witness was examined on the side of respondent and no exhibits were marked.

4. On appreciation of materials before it, Tribunal, under judgment dated 24.11.2011, found that the death has occurred owing to the rash and negligent driving of the bus and awarded compensation as follows:

(a) Loss of dependency	:	Rs. 5,40,000/-
[2500*12*18]		
(b) 15% addition towards future prospects	:	Rs. 81,000/-
(c) Loss of love and affection:		Rs. 19,000/-
(d) Funeral expenses	:	Rs. 10,000/-

		Rs. 6,50,000/-

The said sum of Rs.6,50,000/- was directed to be paid with interest at 7.5% p.a. from the date of petition till the date of deposit. Seeking enhancement of compensation, the present appeal has been filed.

5. Heard learned counsel for appellants and learned counsel for respondent transport corporation.

6. Though learned counsel for appellants submitted that the Tribunal has failed to take into consideration Exs.P9 and P12, salary certificates of the deceased, which have been marked to prove deceased's salary for the month of May 2008 was Rs.18,325/-, this Court is unable to accept Exs.P9 and P12 since the evidence of PW-3, employee of Bajaj Alliance General Insurance Co. Ltd., was to the effect that the deceased joined service only in September 2007 for a monthly salary of Rs.2,350/-. Near eight fold increase in salary over eight months totally is unacceptable. At the same time, this Court considers it appropriate to fix the monthly income of the deceased at Rs.6,000/-. The Tribunal has made a provision for future prospects only at 15% and the same would be increased to 40% as deceased was 22 years of age. This Court also is of the view that the amount awarded under the head loss of love and affection is on the lower side. Following the above line of reasoning, the compensation payable would be as follows:

(a) Loss of dependency	:	Rs. 9,07,200/-
[(6,000+40%-4200)*12*18]		
(b) Loss of love and affection:		Rs. 1,00,000/-
(c) Funeral expenses	:	Rs. 10,000/-

		Rs.10,17,200/-

The said sum of Rs.10,17,200/- shall be paid together with interest at 7.5% p.a. from the date of petition till the date of deposit.

The Civil Miscellaneous Appeal is partly allowed. The respondent transport corporation is directed to deposit the enhanced compensation amount less that already deposited within a period of eight weeks from the date of receipt of this judgment. On such deposit being made, appellants/claimants are at liberty to withdraw the same on due application as apportioned by tribunal. Deficit Court fee, if payable, by appellant in keeping with the quantum awarded by this Court shall be paid within two months of the receipt of this judgment. No costs.

Sd/-
Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

gm

To

1.The Additional District cum Sessions Judge,
I Fast Track Court,
Motor Accident Claims Tribunal,
Chennai.

2.The Assistant Registrar,
AE Section, High court, Madras.(For Computing Court fee)

3.The Section Officer,
VR Section, High court, Madras (2 Copies)

+2cc to Mr.N.Muthurajan, Advocate SR.No.82526

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KJI (CO)
GN(18/01/2018)