IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED 21.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.299 of 2017

1. Sive Booshani
2. Ramesh
3. Suresh
4. Pushpalatha
5. Sathish .. Appellants

Versus

Tamil Nadu State Transport Corporation Limited,
Rep. By its Managing Director,
Kumbakonam Division,
Kumbakonam. .. Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.11.2013 made in M.A.C.T.O.P.No.4766 of 2012 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellants	:	M/s.M.Malar
For Respondent	:	Mr.D.Venkatachalem

J U D G M E N T

Challenging the quantum of compensation awarded by the Claims Tribunal in MACTOP.No.4766 of 2012, the Claimants have come forward with this Civil Miscellaneous Appeal seeking enhancement of compensation.

2. The Deceased R.Kannan, aged 62 years, worked in Rice Mill as Accountant, earning a sum of Rs.10,000/- per month, died in an accident that

occurred on 17.06.2011. Hence, his wife, sons and daughter filed a Claim Petition in M.C.O.P.No.4766 of 2012, seeking compensation for a sum of Rs.5,00,000/-. The Claims Tribunal, on consideration of oral of documentary evidence has awarded a sum of Rs.2,55,000/- as compensation. The break-up details of the same are as under:

Pecuniary Loss (3000x12x5)	-	Rs.1,80,000/-
Loss of consortium to the 1st petitioner	-	Rs. 15,000/-
Loss of Love and affection to the petitioners	-	Rs. 50,000/-
Funeral expenses	-	Rs. 10,000/-
Total		Rs. 2,55,000/-

3. The learned counsel for the appellants would submit that the amount of compensation awarded by the Claims Tribunal is very low and the same needs to be enhanced. The learned counsel for the appellants would also pointed out that the Tribunal has taken the monthly income of the deceased only at Rs.4,500/- which is extremely low.

4. The learned counsel for the respondent would submit that the Claims Tribunal has awarded a compensation, which is reasonable and the same need not be interfered with.

5. A perusal of the award passed by the Claims Tribunal would go to show that the Claims Tribunal has fixed the monthly income of the deceased at Rs.4,500/- which is very low. As per the ratio laid down by the Apex Court in ***Syed Sadiq and others vs. Divisional Manager, United India Insurance Co. Ltd.***,

reported in ***2014 ACJ 627***, the notional monthly income of a vegetable vendor (keeping in mind the price rise of agricultural products) was fixed at Rs.6,500/-, even in the absence of documentary evidence to prove the income. Hence, a sum of Rs.6,500/- per month is fixed as monthly income and deducting 1/3rd towards personal expenses, this Court awards a sum of Rs.3,64,056/- (6500-1/3x12x7) towards Loss of dependency.

6. Considering the facts and circumstances of the case, compensation awarded towards loss of consortium is enhanced to Rs.1,00,000/-, funeral expenses is enhanced to Rs.25,000/- and love and affection is enhanced to Rs.1,00,000/- (Rs.20,000/- x 5).

6. In the result, this Appeal is partly allowed, enhancing the compensation from Rs.2,55,000/- to Rs.5,89,056/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of petition till the date of deposit (less the interest amount for default period, if any). The Insurance Company shall deposit the entire amount, less the amount already deposited, if any, along with interest, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are permitted to withdraw the same as per the ratio of apportionment as ordered by the Tribunal. The appellants shall pay the Court fee due, if any.

7. Post for compliance on 20.06.2017.

21.02.2017

Index : Yes/No

arr/ogy

DR.S.VIMALA,J.
arr/ogy

To
1. Motor Accident Claims Tribunal,
IV Court of Small Causes,
Chennai.

2. The Section Officer, VR Section,
High Court, Madras.

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