

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2018

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.A. No.3234 of 2007

Nagammal

.. Appellant/Petitioner

Versus

1.Mylsamy

C/o, The Managing Director,
Tamil Nadu State Transport Corporation,
Branch Office,
Pollachi, Coimbatore District.

2.The Managing Director,

Tamil Nadu State Transport Corporation,
Division - I,
No.37, Mettupalayam Road,
Coimbatore - 43.

.. Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order dated 20.06.2003 in M.C.O.P.No.383 of 1998 on the file of the Motor Accidents Claims Tribunal, Sub Court, Coimbatore.

For Appellant : Mr.E.D.Sethupathi

For Respondents : No Appearance

सत्यमेव जयते
J U D G M E N T

The civil miscellaneous appeal has been preferred against the order passed in M.C.O.P.No.383 of 1998 dated 20.06.2003 by the Motor Accident Claims Tribunal, Sub Court, Coimbatore.

2.The brief facts of the claim application are that on 25.12.1997 at 3.00 pm, the deceased was travelling in the bus bearing registration No.TCB 1865 from west to east near Gandhi

Nagar, Pollachi, Coimbatore District. While the first respondent was driving the vehicle in a rash and negligent manner and without noticing the road and suddenly he drove the vehicle in the deep pit without proper driving. Hence, the deceased who was in the bus was thrown out from the bus and fell on the road. Immediately, he was taken to the Pollachi Government Hospital and for further treatment he shifted to Coimbatore Government Hospital, in spite of the treatment given to him, he died. The petitioner who is the daughter of the deceased has claimed a sum of Rs.1,50,000/- as compensation.

3.The 2nd respondent Transport Corporation has denied the details furnished by the claimant with regard to the accident. It is submitted that the application for a huge compensation of Rs.1,50,000/- is not sustainable and further they denied the age, avocation and income of the deceased. It is further stated that the petitioner/claimant is bound to prove the same with documentary evidence. The 2nd respondent further submitted that a huge claim of Rs.15,000/- for pain and sufferings and Rs.22,000/- for mental agony is not sustainable.

3.Aggravated against the said liability, the appellant has preferred this appeal to set aside the order passed by the Tribunal.

4.Heard learned counsel for the appellant and there is no representation for the respondents. Perused the documents available on record.

5.On perusal of the award, it is seen that the Tribunal, has taken the age of the deceased as 80 years. The claimant, who is the daughter of the deceased has claimed a sum of Rs.15,000/- for pain and sufferings and for mental agony Rs.20,000/- for loss of Love and Affection Rs.50,000/-.

6.The Tribunal has observed that the claimant is the daughter of the deceased, who is also a married person. However, considering the fact that she has lost the love and affection of her father, the Tribunal has awarded a sum of Rs.20,000/- for the loss of love and affection and Rs.2,000/- for mental agony.

7.The grievance of the appellant is that the Tribunal by considering the age of the deceased as 80 years and also in the absence of any income proof or any occupation, the Tribunal has awarded a sum of Rs.22,000/- as compensation.

8.Considering the grievance of the appellant, this Court is of the view that though the claimant is a married women, she has lost the moral support of the father, hence this Court inclined to enhance the award to some extent. Accordingly, this Court modifies the award passed by the Tribunal under various heads as follows :-

Heads	Amount awarded by the Tribunal (Rs.)	Amount modified by this Court (Rs.)
Love and Affection	20,000	20,000
Mental Agony	2,000	5,000
Funeral Expenses	Nil	5,000
Medical Expenses	Nil	1,500
Total	22,000	31,500

9.In view of the above enhancement, the civil miscellaneous appeal is partly allowed. No Costs.

10.The 2nd respondent is directed to deposit the enhanced award amount in respect of above Appeal as per the modified award passed by this Court, with interest and costs, before the Tribunal, after adjusting the amount, if any, already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit is being made, the Tribunal is directed to transfer the same to the claimant's bank account through RTGS within one week thereon. The rate of interest for the enhanced amount shall carry the same as awarded by the Tribunal i.e., 9% per annum.

Sd/-

Assistant Registrar (AD-IV)

//True Copy//

Sub Assistant Registrar

AT

1.The Sub Court,
(Motor Accidents Claims Tribunal),
Coimbatore.

2.The Section Officer,
V.R. Section,
High Court,
Madras - 104.

+1cc to Mr.E.D.Sethupathi, Advocate SR.66972

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MP (CO)
CB(12/02/2020)



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