

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.11.2018
CORAM:
THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.2508 of 2010

1.Mannangatti
2.Anjalai
3.Sellammal
4.Saroja
5.Indira
6.Sakugunthala

...Appellants

vs.

Tamil Nadu State Transport Corporation Ltd.,
Rep by its Managing Director,
Villupuram, Division - III,
Kancheepuram Region,
Kancheepuram District.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 19.03.2010 in M.C.O.P.No.3805 of 2007 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.F.Terry Chellaraja
For Respondent : No appearance

JUDGMENT

No appearance for the respondent.

The appellants are the claimants in M.C.O.P.No.3805 of 2007 on the file of the Chief Judge, Court of Small Causes, Chennai. The appellants/claimants filed the above claim petition seeking for a compensation of Rs.6,00,000/- for the death of one Dhana Singh @ Dhanasekar. The claimants 1 & 2 are the parents of the deceased, while, the claimants 3 to 6 are his sisters.

2.The case of the appellants/claimants in nutshell:

On 08.09.1994, the deceased was riding his tricycle along Walajah road. At about 05.10 hours, when he was nearing Anna salai, a speeding bus bearing Registration No. TN 31 N 0305 belonging to the respondent hit the tricycle, as a result of which, the deceased fell down and died on spot.

3.According to the appellants/claimants, the rash and

negligent driving of the driver of the bus bearing Registration No. TN 31 N 0305 belonging to the respondent was the cause of the accident and that they are liable to pay compensation to them.

4.The learned Chief Judge, Court of Small Causes, Chennai, after analysing the evidence on record, awarded a compensation of Rs.2,20,000/- together with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants/claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5.Mr.F.Terry Chellaraja, learned counsel appearing for the appellants would contend that the Tribunal has awarded a very meagre amount of Rs.2,20,000/-, when the deceased was just aged 24 years on the date of the accident and was earning a sum of Rs.7,500/- per month. He would further contend that the deceased was the only son in his family and all the appellants/claimants were depending on his income. It is also contended by him that no amount was awarded towards the future prospectus of the deceased.

6.A perusal of the records shows that no documentary evidence was adduced on the side of the appellants/claimants to prove the income of the deceased. The Tribunal has therefore fixed the income of the deceased as Rs.2,400/- per month. In the opinion of this Court, this amount is very meagre. Therefore, a sum of Rs.3,000/- is fixed as monthly income of the deceased since the accident took place in the year 1994. As per the decision rendered by the Constitution Bench of the Honourable Supreme Court in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, 40% should be added towards the future prospectus (Rs.3,000/- + Rs.1,200/-(40% of Rs.3,000/-) = Rs.4,200/-). Since the age of the deceased was 24 years at the time of the accident, the proper multiplier to be adopted in the instant case is 18 as per the decision rendered in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Thus, the loss of dependency is calculated as follows:

$$\begin{aligned} &= \text{Rs.4,200/-} \times 12 \times 18 \times 1/2 \text{ deduction} \\ &= \text{Rs.907,200/-} \times 1/2 \text{ deduction} \\ &= \text{Rs.4,53,600/-} \end{aligned}$$

Apart from the above said amount, the appellants/claimants are entitled to a sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- towards loss of estate, loss of love and affection and funeral expenses. The details of the amount awarded to the appellants/ claimants is as follows:

S.No.	Head	Amount granted
1.	Loss of dependency	Rs.4,53,600/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.5,23,600/-

Thus the appellants/claimants are entitled to the compensation of Rs.5,23,600/- which will carry interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit.

7.The respondent is directed to deposit the enhanced amount (less the amount already deposited) together with the interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the appellants/claimants are at liberty to withdraw the entire amount as per the apportionment made by the trial court.

8.With the above observations, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mbi/prm

To

- 1.The Chief Judge,
Court of Small Causes,
Chennai.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram, Division - III,
Kancheepuram District.

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

+1cc to Mr.M.Malar, Advocate, S.R.No.81568

C.M.A.No.2508 of 2010

CP(CO)

GSP(10/01/2019)