

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.2019 of 2011

1.Vasanthakumari
2.Bhanumathy
3.Bhuvaneswari
4.Jyothi

.... Appellants/Petitioners

..Vs..

The Managing Director
Metro Transport Corporation Ltd.
Pallavan Salai, Chennai - 2.

... Respondent/Respondent

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 31.07.2007 in M.C.O.P.No.2172 of 2002 on the file of the Motor Accidents Claims Tribunal, (Fast Track Court No.I), Chennai.

For Appellants : Mr.Y.Jayanthi Baskar for
: J.Mahalingam

For Respondent : Mr.S.Sivakumar

JUDGMENT

The appellants are the claimants in M.C.O.P.No.2172 of 2002 on the file of the Fast Track Court No.I (Motor Accidents Claims Tribunal), Chennai. The appellants/claimants filed the above claim petition seeking compensation of Rs.7,00,000/- for the death of one Duraibabu in a road accident that took place on 11.12.1999.

2. The first appellant is the wife of the deceased, while the appellants 2 to 4 are his children.

3. The case of the appellants/claimants in a nut-shell:-

On 11.12.1999, at about 6.00 p.m., the deceased Duraibabu was standing on MTH Road, Villivakkam. A speeding bus bearing Registration No.TN-02-N-0226 belonging to the respondent hit the

deceased as a result of which, he died on the spot. According to the claimants, the accident took place due to the rash and negligent driving of the driver of the bus belonging to the respondent and therefore, they are liable to pay compensation of Rs.7,00,000/- to them.

4. The trial Court after analyzing the evidence on record, awarded a compensation of Rs.4,70,440/- together with interest at the rate of 9% per annum.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants have filed the present petition under Section 173 of Motor Vehicles Act, seeking enhancement of compensation.

6. Mrs.Y.Jayanthi Baskar, the learned counsel appearing for the appellants would contend that the deceased Duraibabu was aged 50 years and was working as Superintendent in Chennai Metropolitan Transport Corporation and was earning a sum of Rs.9,654.85/- per month and that the trial Court awarded a meagre amount of Rs.4,70,440/- without awarding any amount towards loss of future prospects. She would further contend that the amount awarded for loss of consortium, transportation and funeral expenses are very meagre.

7. Per contra, the learned counsel appearing for the respondent would contend that the Tribunal based on the principles of law prevailing at the time of the accident had awarded a sum of Rs.4,70,440/- and that there is no necessity to enhance the award passed by the Tribunal.

8. In the light of the decision in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, since the deceased was permanently employed as Superintendent and between the age group of 50 and 60, there should be an addition of 15% for future prospects. Further, the trial Court has also committed an error by applying multiplier as 6.

9. Since as per the decision of the Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, the proper multiplier is 11. As there are four dependants, 1/4th is deducted towards personal expenses of the deceased. Thus, the loss of dependency is calculated as follows:

$$\begin{aligned} &= \text{Rs.9,654/-} + \text{Rs.1449/-} \text{ (15\% of Rs.9654/-)} = \text{Rs.11,103/-} \\ &= \text{Rs.11,103/-} \times 12 \times 11 \times 1/4 \text{ deduction} \\ &= \text{Rs.14,65,596/-} \times 3/4 \text{ deduction} \\ &= \text{Rs.10,99,197/-} + 70,000/- \\ &= \text{Rs.11,69,197/-} \end{aligned}$$

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

S.Nos.	Heads	Amount granted
1.	Loss of dependency	Rs. 10,99,197/-
2.	Loss of consortium	Rs. 40,000/-
3.	Loss of estate	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-
Total		Rs. 11,69,197/-

11. Thus the appellants/claimants are entitled to a sum of Rs.11,69,197/- together with interest at the rate of 7.5% per annum from the date of filing the claim petition till the date of deposit. The respondent is directed to deposit the enhanced compensation amount, less the amount already deposited by them within a period of twelve 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 passed by the Tribunal. The appellants are directed to pay additional Court fee, if any for the enhanced compensation amount.

12. With the above observations, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gsi/dna

To

1. The Judge,
The Fast Track Court I
(Motor Accidents Claims Tribunal),
Chennai.

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Copy To
The Section Officer,
VR Section, High Court,
Madras-104 (2 Copies)

(Note: The Registry is directed to
draft the decree only after payment
of the additional Court fee.)

+1cc to Mr.S.Sivakumar, Advocate, S.R.No.80244
+2cc to Mr.J.Mahalingam, Advocate, S.R.No.80314

C.M.A.No.2019 of 2011

VGI (CO)
CS/23/01/2019



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