

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1647 of 2009

- 1.Mari Regina
- 2.Lawrence

.. Appellants

..Vs..

The Managing Director
Tamil Nadu State Transport,
Corporation Ltd.
Divn.I.Villupuram

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 22.07.2008 in M.C.O.P.No.31 of 2008 on the file of the Motor Accidents Claims Tribunal Fast Track Court -III, Virudhachalam.

For Appellants : Mr.S.Udhyakumar

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The instant appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 22.07.2008 passed by the Motor Accident Claims Tribunal (Fast Track Court -III , Virudhachalam) in MCOP. No.31 of 2008.

The brief facts leading to the filing of the instant appeal are as follows:

2. One Sasi @ Santhanaraj died on 24.01.2006, as a result of an accident caused by a bus bearing Registration No.TN.32/N.1325 owned by the respondent Transport Corporation. The appellants who are the parents of the deceased Sasi @ Santhanaraj preferred a compensation claim before the Motor Accident Claims Tribunal in M.C.O.P.No.31 of 2008 seeking a compensation of Rs.10,00,000/- for the death caused to their son Sasi @ Santhanaraj, by rash and negligent driving by the driver of the bus owned by the respondent Transport Corporation. The Motor Accident Claims Tribunal by its Award dated 22.07.2008

passed in M.C.O.P.No. 31 of 2008, directed the respondent Transport Corporation to pay the appellants a sum of Rs.4,87,600/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

3. Aggrieved by the Award dated 22.07.2018 passed in M.C.O.P.No.31 of 2008, the instant appeal has been filed by the appellants/claimants seeking enhancement of compensation.

4. Heard Mr.S.Udhyakumar learned counsel of the appellants and Mr.K.J.Sivakumar, learned counsel for the respondent Transport Corporation.

5. According to the learned counsel for the appellants, the Tribunal has not considered the loss of income caused to the appellants and future earning capacity of the deceased, while assessing the quantum of compensation payable to the appellants.

6. According to the learned counsel for the appellants, the compensation awarded by the Tribunal is very low, even though at the time of his death, the deceased was earning a monthly salary of Rs.10,000 from Apollo Hospital, where he was working as a Computer Engineer. According to the learned counsel for the Appellants, the tribunal has not considered the age of the parents and the loss of love and affection while fixing the quantum of compensation. According to the learned counsel for the Appellant, the tribunal has not assigned any specific reason for disallowing the compensation for loss of income.

7. Per contra, the learned counsel for the respondent Transport Corporation would submit that the compensation awarded by the Tribunal is a just compensation. According to the learned counsel for the respondent, the deceased was a bachelor aged 26 years at the time of accident.

8. This Court, after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the respective counsels, observes the following:

a) The appellants have filed the salary certificate of the deceased namely Ex.P7 which discloses that the deceased was earning Rs.5,300/- on the date of his death. No contra evidence has been produced by the respondent Transport Corporation before the Tribunal to disprove the monthly income of the deceased on the date of his death and the tribunal has assessed the monthly income of the deceased only at Rs.4,000/-, without any basis.

b) The Tribunal has not awarded any compensation towards loss of future prospects under the impugned award without

considering the fact that the deceased was aged only 26 years and was employed as a Computer Engineer in Apollo Hospital on the date of his death.

c) In the considered view of this Court, the compensation awarded by the Tribunal to the appellants towards loss of love and affection and funeral expenses is also very low.

9. Considering all these factors, this Court is of the considered view that the Tribunal ought to have awarded a higher compensation to the Appellant.

10. In the light of the above, the compensation awarded to the Appellant has to be enhanced from Rs.4,87,600/- to Rs.6,61,200/- in the following manner:

Heads	Amount awarded by the Tribunal	Modified Amount
Loss of Income	Rs.4,80,600/-	Rs.5,71,200/-
Funeral Expenses	Rs.2,000/-	Rs.15,000/-
Loss of love and affection	Rs.5,000/-	Rs.60,000/- (Rs.30,000/- each)
Loss of Estate	Nil	Rs.15,000/-
Total	Rs.4,87,600/-	Rs.6,61,200/-

11. In the result, the Appeal is partly allowed by enhancing the compensation from Rs.4,87,600/- to Rs.6,61,200/- and the respondent is directed to deposit the modified amount of Rs.6,61,200/- together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit, after deducting the amount that has already been deposited, to the credit of M.C.O.P.No.31 of 2008 on the file of the Motor Accidents Claims Tribunal Fast Track Court -III, Virudhachalam, within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the Appellant is permitted to withdraw the amount lying to the credit of M.C.O.P.No.31 of 2008 on the file of the Motor Accidents Claims Tribunal Fast Track Court -III, Virudhachalam along with accrued interest by filing an appropriate application.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Fast Track Court -III,
Virudhachalam.

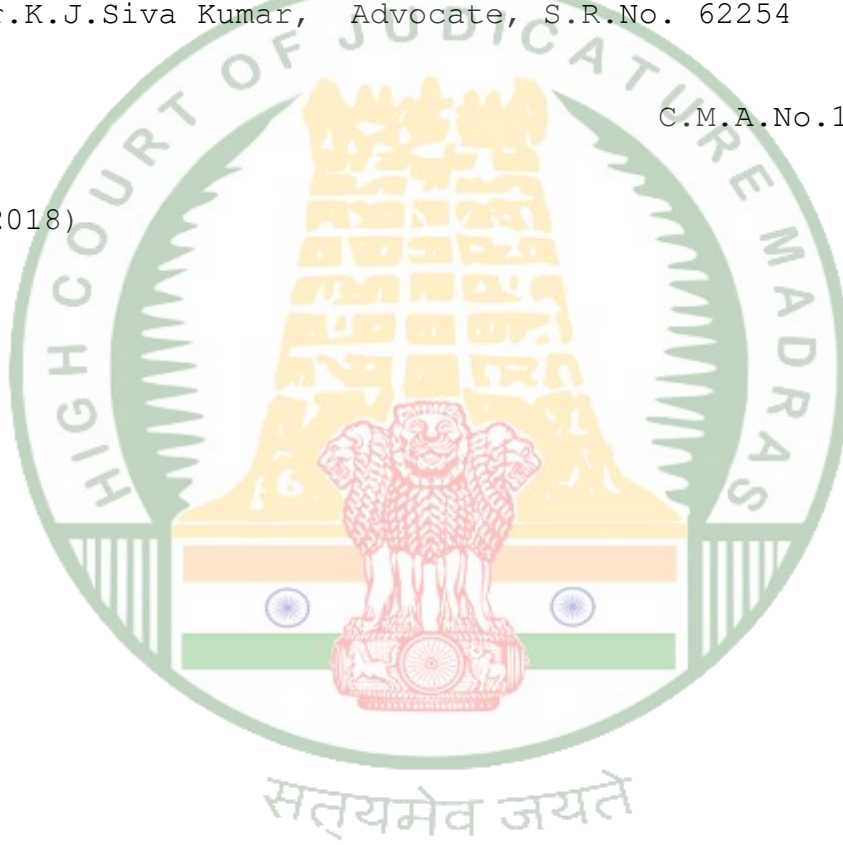
2.The Record Clerk,
VR Section,
High Court, Madras.

+1cc to Mr.S.Udaya Kumar, Advocate, S.R.No. 61846

+1cc to Mr.K.J.Siva Kumar, Advocate, S.R.No. 62254

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GN(22/10/2018)



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