

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3355 of 2009

- 1.Intharani
- 2.Shanmugapriya.S.
- 3.Rajalakshmi B.
- 4.Balasubramaniam. S.

....Appellants/Petitioner

Vs

Tamil Nadu State transport Corporation
Limited Kumbakonam Division-2
Periyami Taguparai, Collectors Office Road,
Trichy-620 001.

...Respondent/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed by the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.2, Salem dated 22.1.2009 made in M.C.O.P.No.1051 of 2003.

For Appellant : Mr.K.Kuppusamy

For Respondent : Mr.D.Venkatachalam

J U D G M E N T

The instant appeal has been filed by the Appellants challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.2, Salem, in its judgement dated 22.01.2009 in MCOP No.1051 of 2003.

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

One Singaravelu died on 22.04.2003 as a result of an accident caused by a bus bearing Registration No.TN-45-N-1422 owned by the respondent Transport Corporation. The Motor Accident Claims Tribunal in its Award dated 21.09.2009, passed in MCOP No.1051 of 2003, directed the respondent to pay the Appellants a sum of Rs.6,23,336/- together with interest at 7.5%

per annum from the date of claim till the date of realization. The Appellants, who are the dependents of the deceased Singaravelu have filed this appeal seeking enhancement of compensation.

3.Heard, Mr.K.Kuppusamy, learned Counsel for the Appellants and Mr.D.Venkatachalam learned Counsel for the respondent.

4.The learned Counsel for the Appellants, submitted that the deceased Singaravelu was a Village Administrative Officer earning a monthly salary of Rs.7,000/- at the time of the accident. The salary certificate of the deceased was also marked as Ex.P-3 before the Tribunal. According to him, being a fatal accident following Sarla Verma (Smt) And Others vs. Delhi Transport Corporation and Another reported in (2009) 6 SCC 121 and the Constitutional Bench Judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi and Others reported in (2017) 16 SCC 680 a higher compensation will have to be awarded under the heads loss of income, funeral expenses, loss of estate and loss of consortium. He submitted that only a sum of Rs.2,000/- was awarded towards funeral expenses, Rs.5,000 was awarded towards loss of consortium. Therefore, according to him, applying the decisions of the Hon'ble Supreme Court, cited supra, the Tribunal ought to have awarded higher compensation under the above mentioned heads.

5.Per contra, the learned Counsel for the respondent Transport Corporation would submit that the compensation awarded by the Tribunal is a just compensation and no interference is called for from this Court.

6.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)It is an undisputed fact that the deceased was employed as a Village Administrative Officer at the time of the accident and was earning a monthly salary of Rs.6,947/-.

(b)As rightly contended by the learned Counsel for the Appellants, the compensation has to be enhanced in the light of Judgments of the Hon'ble Supreme Court in the case of Sarla Verma (Smt) And Others vs. Delhi Transport Corporation and Another reported in (2009) 6 SCC 121 and the Constitutional Bench Judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi and Others reported in (2017) 16 SCC 680.

7.In the considered view of this Court, the Award passed by the Tribunal has to be enhanced in the following manner:

S.No.	Heads	Compensation awarded by the Tribunal	Enhanced / modified
1	Loss of Dependency 6,947+1,043x12x11x1/4 th	Rs.6,11,336/-	Rs.7,91,010/-
2	Funeral Expenses	Rs.2,000/-	Rs.15,000/-
3	Loss of Estate	Rs.5,000/-	Rs.15,000/-
4	Loss of Consortium	Rs.5,000/-	Rs.40,000/-
	Total	Rs.6,23,336/-	Rs.8,61,010/-

8. In the result, the appeal is partly allowed and the Award dated 22.01.2009, passed in MCOP.No.1051 of 2003 is enhanced to Rs.8,61,010/- instead of Rs.6,23,336/- together with interest at 7.5% per annum from the date of claim till the date of realization. The respondent is directed to deposit Rs.8,61,010/- together with interest at 7.5% per annum from the date of claim till the date of realization after deducting the amount already deposited, if any, on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.2, Salem within a period of four weeks from the date of receipt of this order. On such deposit being made, the Appellants are permitted to withdraw the said sum by filing an appropriate application. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vji/pam

To

1.The Motor Accident Claims Tribunal,
Additional District Judge, Fast Track Court No.2, Salem.

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

+1cc to Mr.D.Venkatachalam, advocate sr.no.60712
+1cc to Mr.K.Kuppusamy, Advocate sr.no.60505

C.M.A.No. 3355 of 2009

nr 22/10/2018