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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.664 of 2010

1.Pushpa
2.B.Pugazhendhi (minor)
3.B.Vignesh (minor)
4.B.Srija (minor)
5.Chandra
6.Munusamy ..Appellants/Petitioners

Vs

State Express Transport Corporation Limited
Rep. by its Managing Director
Pallavan Salai, Chennai - 02. ..Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the compensation amount awarded in judgment and decree dated 01.10.2009 made in M.C.O.P.No.3983 of 2007 on the file of the Motor Accident Claims Tribunal (Chief Small Causes Court) at Chennai by allowing this Civil Miscellaneous Appeal.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.K.J.Sivakumar

JUDGMENT

The instant appeal has been filed by the claimants challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal (Chief Small Causes Court) at Chennai in its Award dated 01.10.2009, passed in M.C.O.P.No.3983 of 2007.

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



(i) Mr. Babu died as a result of an accident caused by a bus bearing Registration No. TN-01-N-6637 owned by the respondent Transport Corporation. The dependents of deceased Babu preferred a claim before the Motor Accident Claims Tribunal (Chief Small Causes Court) at Chennai in M.C.O.P.No.3983 of 2007, seeking compensation of Rs.10,00,000/- for the death of Babu as a result of the accident caused by the bus owned by the respondent Transport Corporation.

(ii) The Motor Accident Claims Tribunal, Chennai passed an award dated 01.10.2009, directing the respondent Transport Corporation to pay the Appellants a sum of Rs.4,58,000/- together with interest at 7.5% from the date of claim till date of realization and also awarded costs of Rs.15,577.50/-.

3. Aggrieved by the quantum of compensation awarded by the Tribunal, the instant appeal has been filed by the Appellants seeking enhancement of compensation.

4. Heard Mr. K. Varadha Kamaraj, learned Counsel for the Appellants and Mr. K. J. Sivakumar, learned Counsel for the respondent.

5. According to the learned Counsel for the Appellants, the Tribunal under the impugned Award has erroneously assessed the monthly salary of the deceased Babu at Rs.3,000/-. According to him, the accident happened in the year 2007 and the deceased Babu, who was working as a mason at the time of the accident was earning a monthly salary of Rs.9,000/- per month, but the Tribunal without any basis has assessed his monthly salary at Rs.3,000/-.

6. The learned Counsel for the Appellants further contended that the Tribunal failed to take note of the fact that the deceased Babu was only aged 35 years at the time of the accident and therefore, considering his young age, the Tribunal ought to have assessed the loss of consortium at a higher sum instead of only Rs.20,000/-.

7. The learned Counsel for the Appellants further submitted that the Appellants are wife, three minor children and parents of the deceased and the entire family were dependent on the salary earned by the deceased Babu for their survival.

8. The learned Counsel for the Appellants further submitted that the Tribunal has erroneously deducted 1/3rd towards the personal expenses of the deceased, whereas considering the six dependents of the deceased, the Tribunal ought to have deducted



1/4th towards personal expenses of the deceased.

9. The learned Counsel for the Appellants further submitted that loss of future prospects was not considered by the Tribunal under the impugned Award. Further, the learned Counsel contended that the compensation awarded under the heads funeral expenses and loss of estate was a meagre and an inadequate amount.

10. Per contra, the learned Counsel for respondent submits that the compensation awarded by the Tribunal is just a compensation and no interference is called for.

11. This Court after having considered the materials available on record and after having examined the impugned Award and after hearing the submissions of the respective Counsels observes the following:

- a) It is an undisputed fact that the deceased Babu was a mason at the time of the accident as seen from Ex.P2 Identity Card.
- b) Even though, the Appellants in their claim have disclosed that the deceased Babu was earning a monthly salary of Rs.9,000/-, the Tribunal without any basis has fixed the monthly salary at Rs.3,000/-. Considering the year of the accident i.e. 2007, a mason would have earned much more than Rs.3,000/- per month. This Court fixes the notional income of the deceased Babu at Rs.6,000/- which is a just sum.
- c) It is an undisputed fact that the deceased Babu left behind six dependents, who are the Appellants in this appeal. It is settled law that when there are six dependents only 1/4th will have to be deducted towards personal expenses of the deceased whereas under impugned Award, the Tribunal has deducted 1/3rd towards personal expenses. The multiplier to be adopted as per Sarla Verma and others vs Delhi Transport Corporation and another reported in 2009 ACJ 1298, is 16 multiplier for a person aged 35 years whereas under the impugned Award, the Tribunal has taken the 17 multiplier.
- d) The funeral expenses, loss of consortium and loss of estate awarded by the Tribunal is also a meagre and an inadequate sum.

12. Considering the judgment of the Hon'ble Supreme Court in



the case of National Insurance Company Limited vs. Pranay Shethi and Others reported in 2017 (6) SCC 680, this Court is of the considered view that the compensation will have to be enhanced in favour of the Appellant.

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13. For the aforesaid reasons, this Court is of the considered view that the Award passed by the Tribunal shall be modified in the following manner:

Income to be taken	- Rs.6,000/-
Adding future prospects	- 40%
Income	- Rs.8,400/-
Since dependents 6 persons	
deductions for personal expenses of deceased - 8400x3/4x12x16	
	=
Rs.12,09,600/-	
Funeral Expenses	- Rs.15,000/-
Consortium	- Rs.40,000/-
Loss of estate	- Rs.15,000/-
	Rs.12,79,600/-

14. This Court is of the considered view that Rs.12,79,600/- shall be awarded to the Appellants instead of Rs.4,58,000/- awarded by the Tribunal under the impugned Award. Since the Appellants have paid Court fee only for Rs.4,58,000/- in this appeal, this Court directs the the Appellants to pay the Court fee for the balanced amount of Rs.8,21,600/- (Rs.12,79,600-Rs.4,58,000/-), which the Registry shall collect before drafting the decree. This Court is of the considered view that even though, the Appellants had sought for enhancement of only Rs.5,42,000/- instead of Rs.4,58,000/- in this appeal, the awarding of Rs.12,79,600/- as compensation is just compensation considering the loss and injuries suffered by the Appellants.

15. In the result, the appeal is allowed and the Award dated 01.10.2009, passed by the Tribunal in M.C.O.P.No.3983 of 2007, is hereby modified by directing the respondent to pay the Appellants a sum of Rs.12,79,600/- instead of Rs.4,58,000/-. The respondent is directed to deposit the balance amount of Rs.8,21,600/- (Rs.12,79,600-Rs.4,58,000/-) to the credit of M.C.O.P.No.3983 of 2007, on the file of the Motor Accident Claims Tribunal (Chief Small Causes Court) at Chennai, together



with interest 7.5% per annum from the date of claim till the date of deposit 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

mtl/pam

To

1.The Motor Accident Claims Tribunal,
(Chief Small Causes Court) at Chennai

2.The Section Officer,
Vernacular Section,
Madras High Court. (+2 Copies)

+1cc to Mr.K.J.Sivakumar, Advocate SR.No.58091

+1cc to Mr.Padmanabhan, Advocate SR.No.58021

C.M.A.No. 664 of 2010

BR(CO)
GMY(11/12/2018)