

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.3765 of 2005

1.Ganga

2.Prakasam

... Appellants/Petitioners

..Vs..

State Government Express
Transport Corporation Chennai
through its Managing Director
No.2, Pallavan Salai,
Chennai - 600 002.

... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 25.02.2005 in M.A.C.T.O.P.No.197 of 2001 on the file of the Motor Accident Claims Tribunal / Sub Court. Hosur.

For Appellants : Mr.P.Mani

For Respondent : Mr.Kathiresan
Standing counsel

JUDGMENT

The appellants are the claimants in M.A.C.T.O.P.No.197 of 2001 on the file of the Motor Accident Claims Tribunal / Sub Court, Hosur. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.3,50,000/- for the death of their daughter Kala in a road accident that took place on 04.03.2001.

2. The case of the claimants is that on 03.03.2001, the deceased Kala along with her mother were travelling as passengers in a bus bearing Registration No. TN 07 N 9388 belonging to the respondent from Bangalore to Vellore. At about 00.45 hours, the driver of the bus drove the bus rashly and negligently and hit a stationary Tempo Van bearing Registration No.TN 59 0897, as a result of which, the deceased Kala sustained grievous injuries all over her body and died on the way to

Hospital. The 1st claimant also sustained grievous injuries. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the respondent, State Government Express Transport Corporation was the cause of the accident, and that they are liable to pay compensation to them.

3. The learned Subordinate Judge / Motor Accident Claims Tribunal, Hosur after analysing the evidence on record, awarded a compensation of Rs.1,50,000/- to the claimants together with interest at the rate of 9% per annum from the date of the claim petition. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.P.Mani, learned counsel appearing for the appellants / claimants contended that the Tribunal awarded a meagre amount of Rs.1,50,000/- for the death of the claimants' daughter who was aged about 15 years and prayed for enhancement of compensation.

5. Mr.Kathiresan, learned standing counsel for the respondent / State Government Express Transport Corporation contended that the award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

6. In the decision of Kishan Gopal and another v. Lala and others reported in 2013 (5) CTC 212 (SC), the Hon'ble Supreme Court, in the case of a road accident that happened on 19.07.1992 for a student aged 10 years, fixed the notional annual income of the deceased as Rs.30,000/- and adopted the multiplier of 15 as the age of the mother was 36 years on the date of the accident.

7. In the instant case, the deceased was aged 15 years on the date of accident and applying the principles laid down in the decision in Kishan Gopal and another v. Lala and others reported in 2013 (2) TN MAC 358 (SC), the notional income is fixed at Rs.45,000/- per annum and since the age of the mother of the deceased was 35 years, the proper multiplier to be adopted in the instant case is 16 as per the decision in Sarlavarma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121.

Loss of dependency:
= Rs.45,000 x 16
= Rs.7,20,000/-

8. 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 respectively. The award passed under various heads is extracted hereunder:

S.No.	Head	Amount granted
1.	Loss of dependency	Rs.7,20,000/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.7,90,000/-

9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,50,000/- to Rs.7,90,000/-.

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.1,50,000/- to Rs.7,90,000/-.

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The respondent / State Government Express Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.7,90,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.A.C.T.O.P.No.197 of 2001 on the file of the Motor Accident Claims Tribunal / Sub Court Hosur within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following the due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

mtl

To

The Motor Accident Claims Tribunal,
Subordinate Judge,
Hosur.

Copy to

The Section officer
VR Section
High Court, Madras 104.

+1 CC to Mr.P.Mani, Advocate sr 83426.

+1 CC to Mr.Kathiresan, Advocate sr 83530.

C.M.A.No.3765 of 2005

GJ(CO)
SP(07/09/2020)



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