

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

CMA.No.1666 of 2009

1. Nagaraj
2. Selvi

... Appellants/ Petitioners

Vs.

Tamil Nadu Transport Corporation
rep. by its Managing Director,
No.12, Ramakrishnan Road, Salem. ... Respondent/Respondent

Prayer This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the quantum of compensation awarded in M.C.O.P.No.1536 of 2004 dated 20.12.2007 by the Additional District Judge, Fast Track No.II, Motor Accident Claims Tribunal, Salem.

For Appellants : Mr.V.R.Rajasekaran

For Respondent : Mr.D.Venkatachalam

J U D G M E N T

The appellants are the claimants in MCOP No.1536 of 2004 on the file of the Additional District Judge, Fast Track Court No.II, Motor Accident Claims Tribunal, Salem. They filed the claim petition seeking compensation of Rs.5,00,000/- from the respondent for the death of their son in a road accident that took place on 02.02.2004.

2. The case of the claimants is that on 02.02.2004, when their son Sabari @ Sabarish was travelling in a bus bearing registration No.TN-27-N 1233 belonging to the Tamil Nadu Transport Corporation (first respondent herein), fell down from the bus as the driver of the bus drove the bus rashly and negligently and also applied sudden brakes. Their further contention is that though their son was admitted in a nearby hospital and subsequently referred to Government Hospital, Erode, he succumbed to injuries on the same date of the accident.

3. The Additional District Judge, Fast Track Court No.II/ Motor Accident Claims Tribunal, Salem, after analysing the evidence on record, awarded a compensation of Rs.1,72,000/- to the claimants together with interest at the rate of 7.5% p.a. Not satisfied with the quantum of compensation, awarded by the tribunal, the claimants have filed the present appeal.

4. Mr.V.R.Rajasekaran, learned counsel appearing for the appellants/claimants contended that though the deceased Sabari @ Sabarish was a student aged 17 years studying in S.S.M.I.T. College, Kumarapalayam, on the date of accident, the tribunal had awarded a very meagre amount of Rs.1,72,000/- after fixing his yearly income as Rs.15,000/- and therefore prayed for enhancement of compensation.

5. Per contra, Mr.D.Venkatachalam, learned counsel appearing for the respondent contended that the tribunal had rightly fixed the income of the deceased on the basis of the well laid principles of law prevailing at the time of passing of award and therefore, the same need not be disturbed at this stage and prayed for dismissal of the appeal.

6. It is not disputed that the age of the deceased was 17 years on the date of accident and he was a college student. The trial court mainly fixed the annual income of the deceased as Rs.15,000/- based on the II Schedule appended to Section 163 A of the Motor Vehicles Act. In the opinion of this court, the annual income fixed by the tribunal is too meagre and in the facts and circumstances of the present case, the monthly income of the deceased is fixed at Rs.4,500/-. Since the deceased was aged 17 years on the date of accident, proper multiplier to be adopted in the instant case is '18', as per the decision in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. The deceased died as a bachelor and therefore, 50% of income should be deducted. Therefore, loss of income is calculated as $4,500 \times 18 \times 12 \times 50\% = 4,86,000/-$. Apart from this amount, the claimants are entitled to Rs.15,000, Rs.40,000/- and Rs.15,000/- towards 'Loss of Estate', 'Loss of love and affection' and 'Funeral Expenses' respectively. Thus, the claimants are totally entitled to a sum of Rs.5,56,000/- together with interest at the rate of 7.5% p.a. from the date of plaint till the date of realisation.

7. In the result,

(i) The appeal is allowed. No costs.

(ii) The compensation awarded by the tribunal is enhanced from Rs.1,72,000/- to Rs.5,56,000/-.

(iii) The appellants/claimants are directed to pay necessary court fee for the enhanced compensation amount, within three weeks from the date of this order.

(iv) The respondent, the Tamilnadu Transport Corporation is directed to deposit the enhanced compensation amount of Rs.5,56,000/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit (less the amount if any already deposited by them) within 4 weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the respondent, the claimants/appellants are entitled to withdraw the same, after following due process of law.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

mst

To

The Additional District Judge,
Fast Track Court No.II,
Motor Vehicle Accidents Claims Tribunal, Salem.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.76609

+1cc to Mr.V.R.Rajasekaran, Advocate SR.No.76620

CMA.No.1666 of 2009

PPA (CO)
GMY (05/05/2021)

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