

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1900 of 2011

1. Mani
2. Velu

.... Appellants/ Petitioners

.. Vs ..

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vellore. Respondent/ Respondents

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 15.03.2007 made in M.C.O.P.No.631 of 2002 on the file of the Motor Accidents Claims Tribunal (District Judge), Thiruvannamalai.

For Appellant : Mrs.A.Subadra
for M/s.M.Malar
For Respondent : Mr.K.J.Sivakumar

JUDGMENT

The accident in this case happened on 04.09.2000 at about 10.30 a.m. while the deceased Dhanammal was tried to get down from the respondent/Transport Corporation bus. In the said accident, the deceased Dhanammal sustained grievous injuries and subsequently died in the hospital. For the death of the said Dhanmmal/mother, the claimants, who are the sons of the deceased, have filed a claim before the Tribunal and the Tribunal, after considering both oral and documentary evidence adduced on either side, awarded a sum of Rs.81,000/- together with interest at 7.5% and costs to the claimants. Having not satisfied with the award passed by the learned District Judge, (Motor Accidents Claims Tribunal), Thiruvannamalai, in M.C.O.P.No.631 of 2002, dated 15.03.2007, the appellants/sons of the deceased Dhanammal have preferred this appeal seeking enhancement of compensation.

2. Heard the learned counsel appearing for the appellants/claimants and the learned counsel appearing for the respondent/Transport Corporation.

3. The rash and negligent driving on the part of the driver of the respondent/Transport Corporation bus is not in dispute. Accordingly, the finding given by the Tribunal is hereby confirmed.

4. On the point of quantum, it appears that proper multiplier was not adopted by the Tribunal. At the time of accident, since the deceased was aged 55 years and as per the decision of the Hon'ble Supreme Court in Sarla Verma v. Delhi Transport Corporation [2009 (2) TN MAC 1 (SC)], multiplier of 11 has to be applied and after deducting 1/3 towards personal expenses of the deceased, taking into consideration the avocation said to have been taken by the deceased, the income has to be fixed at Rs.2,500/- per month and the loss of dependency is calculated as follows:-

$$2,500 + 250 (10 \%) \times 12 \times 1/3 \times 11 = 2,42,000/-.$$

The Tribunal has not awarded any amount under the head of loss of love and affection, and hence, it is just and necessary to award a sum of Rs.20,000/- [Rs.10,000/- each] to the claimants. The Tribunal has not awarded any amount under the head of transportation charges and hence, it is just and necessary to award a sum of Rs.5,000/- under the said head. Further, the Tribunal has awarded a sum of Rs.1,000/- towards funeral expenses and the same is confirmed. In all, the appellants/claimants are entitled to a sum of Rs.2,68,000/- as total compensation.

5. Accordingly, the award of the Tribunal stands enhanced as follows:-

Sl. No.	Head	Amount awarded by the Tribunal	Amount granted by this Court
1.	Loss of income	Rs. 80,000/-	Rs. 2,42,000/-
2.	Funeral expenses	Rs. 1,000/-	Rs. 1,000/-
3.	Loss of love and affection to both claimants	Nil	Rs. 20,000/-
4.	Transportation charges	Nil	Rs. 5,000/-
	Total	Rs. 81,000/-	Rs. 2,68,000/-

6. In the result,

I. This Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.81,000/- to Rs.2,68,000/- with proportionate costs.

II. The interest granted by the Tribunal at 7.5% stands confirmed.

III. The respondent-Transport Corporation is directed to deposit the enhanced amount within a period of twelve weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

IV. On such deposit being made, the appellants/claimants are permitted to withdraw the entire award amount with proportionate interest, as apportioned by the Tribunal, less the amount already withdrawn, if any.

V. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation.

VI. No order as to costs.

Sd/-

Assistant Registrar (CS viii)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Motor Accidents Claims Tribunal/
District Judge,
Thiruvannamalai.

2. The Section Officer,
V.R. Section, High Court,
Madras. (2 Copies)

+1cc to M/s.M.Malar , Advocate SR.No. 13564

+1cc to Mr.K.J.Sivakumar , Advocate SR.No. 12712

C.M.A.No.1900 of 2011

A.SK(08/04/2019)