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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2112 of 2019

1.Sarasu

2.Minor Thennarasu

3.Minor Dharani
(Mior 2 & 3 rep. By their mother
and Natural Guardian Sarasu,
1st appellant)

4.Lakshmi

Narayanasamy (dead)

.. Appellants/Claimants

Vs.

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Tiruvannamalai.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.09.2018 made in M.C.O.P.No.671 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellants : Mr.S.Sriram

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellants/claimants seeking enhancement of compensation granted by the Tribunal in the award dated 24.09.2018 made in M.C.O.P.No.671 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.



2.By consent of both the learned counsel appearing for the appellants and respondent-Transport Corporation, the appeal is taken up for final disposal at the stage of admission itself.

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3.The appellants are claimants in M.C.O.P.No.671 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai. They filed the said claim petition claiming a sum of Rs.30,00,000/- as compensation for the death of one Murugan, who died in the accident that took place on 06.06.2017. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the respondent-Transport Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.11,80,584/- as compensation to the appellants. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

4.The learned counsel appearing for the appellants contended that the deceased was working as a driver and was earning a sum of Rs.15,000/- per month. The deceased was aged 51 years at the time of the accident. The Tribunal erroneously fixed meagre sum of Rs.8,500/- per month as income of the deceased. The amounts granted by the Tribunal towards loss of love & affection and loss of consortium are meagre and prayed for enhancement of compensation.

5.Per contra, Mr.K.J.Sivakumar, the learned counsel appearing for the respondent-Transport Corporation contended that the appellants have not filed any documents to prove the avocation and income of the deceased. In the absence of material evidence, the Tribunal has fixed notional income of the deceased at Rs.8,500/- per month and granted 10% enhancement towards future prospects, which are not meagre. A sum of Rs.1,85,000/- awarded by the Tribunal towards loss of love and affection to the appellants 2 to 4 is excessive and prayed for dismissal of the appeal.

6.Heard the learned counsel appearing for the appellants as well as learned counsel appearing for the respondent-Transport Corporation and perused all the materials available on record.

7.From the materials available on record, it is seen that the appellants have contended that the deceased was working as a driver and was earning a sum of Rs.15,000/- per month. The appellants have not filed any documents to prove their contention. In the absence of material evidence, the Tribunal fixed a sum of Rs.8,500/- per month as notional income of the deceased. The accident is of the year 2017. The notional income



fixed by the Tribunal is meagre. A sum of Rs.10,000/- per month is fixed as notional income of the deceased. The amount granted by the Tribunal towards loss of dependency is modified to Rs.10,89,000/- (Rs.10,000/- + 1000 (Rs.10,000/- X 10%) x 12 x 11 x 3/4). The amounts awarded by the Tribunal under all other heads are just and reasonable and the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	9,25,584	10,89,000	Enhanced
2.	Loss of consortium to the 1 st appellant	40,000	40,000	Confirmed
3.	Loss of estate	15,000	15,000	Confirmed
4.	Funeral expenses	15,000	15,000	Confirmed
5.	Loss of love and affection of the appellants 2 and 3 at the rate of Rs.75,000/- each	1,50,000	1,50,000	Confirmed
6.	Loss of love and affection of the 4 th appellant	35,000	35,000	Confirmed
	Total	Rs.11,80,584/-	Rs.13,44,000/-	Enhanced by Rs.1,63,416/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.11,80,584/- is hereby enhanced to Rs.13,44,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants-claimants are



directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent-Transport Corporation is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, appellants 1 & 4 are permitted to withdraw their respective share of the award amount, along with proportionate interest and costs, less the amount if any, already withdrawn. The share of the minors/appellants 2 and 3 are directed to be deposited in any one of the Nationalised Bank till the minors attain majority. The 1st appellant being the mother of the appellants 2 & 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minors. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

mtl

To

1.The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruvannamalai.

+1 CC to Mr.K. Govi Ganesan, Advocate sr 32333.

+1 CC to Mr.K.J.Sivakumar , advocate sr 33224.

C.M.A.No.2112 of 2019

SS(CO)
SP(17/10/2019)