



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2152 of 2015

1.G.Lakshmi
2.Minor. G.Hari
3.Minor. G.Kamalesh
4.Allibabu
5.A.Lakshmi .. Appellants/Petitioner
(Minor appellants 2 and 3 are represented by their mother and
next friend G.Lakshmi)

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
No.2, Pallavan House, Mount Road,
Chennai - 600 002.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.03.2014 made in M.C.O.P.No.4421 of 2009 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Chennai.

For Appellants : Mr.K.Suryanarayanan

For Respondent : No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 17.03.2014 made in M.C.O.P.No.4421 of 2009 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Chennai.

2.The appellants are the claimants in M.C.O.P.No.4421 of 2009 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Chennai. They filed the above said claim petition, claiming a sum of Rs.25,00,000/- as compensation for the death of one A.Gnanasekar @ Senthilkumar, who died in the accident that took place on 15.06.2008.



3.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.11,83,000/- as compensation to the appellants.

4.Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal.

5.The learned counsel appearing for the appellants contended that the deceased was a Painter and was earning a sum of Rs.400/- per day at the time of accident and the appellants produced Ex.P7/salary certificate to prove the same. In spite of salary certificate marked by the appellants, the Tribunal fixed a sum of Rs.6,000/- as monthly income of the deceased including future prospects, which is meagre. The deceased was aged 24 years at the time of accident and the correct multiplier applicable is '18'. The Tribunal erroneously applied multiplier '17' and granted compensation towards pecuniary loss. The Tribunal failed to grant any amount towards loss of estate and mental agony. The amounts awarded by the Tribunal under other heads are meager and prayed for enhancement of compensation.

6.There is no appearance on behalf of the respondent-Transport Corporation.

7.Heard the learned counsel for the appellants and perused the entire materials on record.

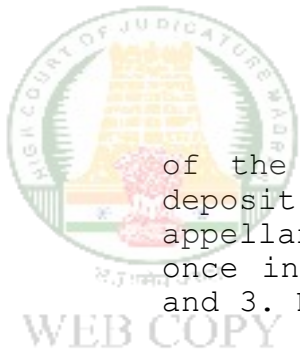
8.From the materials available on record, it is seen that the appellants have contended that the deceased was a Painter and was earning a sum of Rs.400/- per day at the time of accident. The appellants produced Ex.P7/salary certificate to substantiate their contention. However, the employer of the deceased was not examined. In such circumstances, the Tribunal fixed a sum of Rs.6,000/- per month as notional income of the deceased including future prospects. The accident took place in the year 2008 and the notional income fixed by the Tribunal is meager. Therefore, a sum of Rs.6,000/- per month is fixed by this Court as notional income of the deceased. The deceased was aged 24 years at the time of accident and the appellants are entitled to 40% enhancement towards future prospects. The correct multiplier applicable is '18' as per the judgment of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC Supreme Court, Sarla Verma & others vs. Delhi Transport Corporation & another and not '17' as applied by the Tribunal. Thus, the compensation towards pecuniary loss is hereby enhanced to Rs.13,60,800/- [Rs.8,400/- (Rs.6,000/- + 40% of Rs.6,000/-) X 12 X 18 X $\frac{3}{4}$]. The Tribunal has granted a sum of Rs.1,00,000/-



towards loss of consortium to the first appellant, which is excessive and the same is hereby reduced to Rs.40,000/-. The Tribunal has not granted any amount towards loss of estate. Hence, a sum of Rs.15,000/- is granted by this Court towards loss of estate. The amount awarded by the Tribunal towards loss of love and affection and funeral expenses are reasonable and they 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.	Pecuniary loss	9,18,000/-	13,60,800/-	Enhanced
2.	Funeral expenses	15,000/-	15,000/-	Confirmed
3.	Loss of consortium to the first appellant	1,00,000/-	40,000/-	Reduced
4.	Loss of love and affection to the appellant 2 and 3	1,50,000/-	1,50,000/-	Confirmed
5.	Loss of estate	-	15,000/-	Granted
	Total	Rs.11,83,000/-	Rs.15,80,800/-	enhanced by Rs.3,97,800/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.11,83,000/- is hereby enhanced to Rs.15,80,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent-Transport Corporation is directed to deposit the enhanced 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 to the credit of M.C.O.P.No.4421 of 2009 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Chennai. On such deposit, the appellants 1, 4 and 5 are permitted to withdraw their respective share of the enhanced award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The share of the minor appellants 2 and 3 are directed to be deposited in any one



of the Nationalized Bank, till they attain majority. On such deposit, the first appellant, being the mother of the minor appellants 2 and 3 is permitted to withdraw the accrued interest once in three months, for the welfare of the minor appellants 2 and 3. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Subordinate Judge No.I,
Motor Accident Claims Tribunal,
Chennai.

2.The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No.100812

C.M.A.No.2152 of 2015

RR(CO)
CB(04/08/2021)