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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3693 of 2011

1. Manjula
2. Minor Sukash
3. Minor Sankaramma
4. Devamma ... Appellants / Petitioners
Minors rep. by Next Friend and
Mother Manjula.

.. Vs ..

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

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 07.11.2007 made in M.C.O.P.No.810 of 2005 on the file of the Motor Accidents Claims Tribunal [I Additional District Judge], Dharmapuri at Krishnagiri.

For Appellants : Mr.Mukund R.Pandiyan

For Respondent : Mr.S.V.Vasantha Kumar

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JUDGMENT

The claimants have come forward with this appeal for enhancement of the compensation awarded by the Motor Accidents Claims Tribunal (I Additional District Judge), Dharmapuri at Krishnagiri, in M.C.O.P.No.810 of 2005, dated 07.11.2007.

2. The short facts that are essential for the disposal of this appeal is that on 26.04.2004 at about 19.00 hours, the deceased namely, B.Sankar was driving his Ambassador Car bearing Registration No.KA-05-B-3189 for hire towards Chennai from Bangalore along with others as passengers and he was proceeding on the left side of the 4 lane N.H. Road, slowly and cautiously, observing the traffic rules and when he was proceeding opposite to Sappadi Bannari Hosairies and Textiles Mill, the driver of the Transport Corporation bus bearing Registration No.TN-23-N-1507 belonging to the respondent drove the same in a rash and



negligent manner without minding the rules and dashed against the Car. Due to the impact, the owner-cum-driver of the Car sustained fatal injuries to his vital organs and died on the spot. The accident was due to the rash and negligent driving of the driver of the bus bearing Registration No.TN-23-N-1507. At the time of accident, the deceased was 34 years old and he was having good physique. He was owning an Ambassador Car and he used to go to hire as a tourist taxi through Minerva Tourist and Travels Private Limited, near Minerva Circle, Bangalore. The deceased was earning a sum of Rs.15,000/- to Rs.20,000/- per month. The first claimant, who is the wife of the deceased, second claimant, who is the minor son of the deceased, third claimant, who is the minor daughter of the deceased and the fourth claimant, who is the aged mother of the deceased have filed a claim petition claiming a sum of Rs.20,00,000/- as compensation from the respondent.

3. Before the Tribunal, on the side of the claimants, first claimant examined herself as P.W.1 and one Mr.G.Balasubramanian was examined as P.W.2 and Exs.P.1 to P.5 were marked. The driver of the bus was examined as R.W.1 and no document was marked on the side of the respondent before the Tribunal.

4. The Tribunal, after considering both oral and documentary evidence adduced on either side, has come to a conclusion that the accident has taken place due to the rash and negligent driving of the driver of the respondent-Transport Corporation bus and awarded a sum of Rs.5,56,000/- together with interest at 7.5% per annum from the date of the claim petition till the date of payment. Having not satisfied with the award passed by the Motor Accidents Claims Tribunal (I Additional District Judge), Dharmapuri at Krishnagiri, the appellants, who are the wife, minor son, minor daughter and mother of the deceased respectively have preferred this appeal before this Court seeking enhancement of compensation.

5. On the question of quantum, the claimants have filed Ex.P.3 and Ex.P.4 to show that the deceased was the owner-cum-driver of the Car in which he travelled. At the time of the accident, the deceased was aged about 34 years and accordingly, multiplier of 17 is rightly applied by the Tribunal. However, taking into consideration the fact that the deceased was the owner-cum-driver, the income derived by him has been re-fixed as Rs.5,000/- per month. The deceased was aged 34 years at the time of the accident. Hence, 40% has to be added towards future prospects. After deducting 1/4th towards his personal expenses and applying multiplier of 17, the loss of dependency is modified to Rs.10,71,000/- [Rs.5000 + 2000 (40% of Rs.5,000)] X 12 X 17 X 3/4]. The amount awarded by the Tribunal under the head of consortium to the first claimant, who is a widow of the



deceased, has been increased from Rs.15,000/- to Rs.40,000/- and the amount granted by the Tribunal under the head of loss of love and affection to each claimants 2 and 3 has been increased from Rs.25,000/- each to Rs.40,000/- each and towards loss of love and affection to the fourth claimant/mother, the amount has been increased from Rs.10,000/- to Rs.20,000/- and towards funeral expenses, the amount of Rs.5,000/- granted by the Tribunal is enhanced to Rs.15,000/-.

6. 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.4,76,000/-	Rs.10,71,000/-
2.	Loss of Consortium to the first claimant	Rs. 15,000/-	Rs. 40,000/-
3.	Loss of love and affection to both 2nd and 3rd claimants	Rs. 50,000/-	Rs. 80,000/-
4.	Loss of love and affection to the 4th claimant	Rs. 10,000/-	Rs. 20,000/-
5.	Funeral Expenses	Rs. 5,000/-	Rs. 15,000/-
	Total	Rs.5,56,000/-	Rs.12,26,000/-

7. In the result,

I. This Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.5,56,000/- to Rs.12,26,000/-.

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 1 and 4 herein/claimants 1 and 4 are permitted to withdraw their share amount as apportioned by the Tribunal along with proportionate interest and costs, less the amount already withdrawn, if any.



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V. The Tribunal is directed to deposit the share of the minor appellants 2 and 3/claimants 2 and 3 as apportioned by the Tribunal in any one of the Nationalised Bank under reinvestment scheme, till they attain majority and the first appellant-mother is permitted to withdraw interest once in three months for their maintenance.

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

VII. No order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jr1

To

1. The I Additional District Judge,
Motor Accidents Claims Tribunal,
Dharmapuri at Krishnagiri.
2. The Section Officer,
V.R. Section, High Court,
Madras.

+1 cc to Mr.Mukund R.Pandiyan, Advocate, S.R.No.10985

+1 cc to Mr.S.V.Vasanthakumar, Advocate, S.R.No.10734

C.M.A.No.3693 of 2011

BR(CO)
SSM(22/10/2019)