IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.191 of 2016

1.Ranganathan
2.Kumari .. Appellants/Petitioners

Vs.

The Managing Director
Tamil Nadu State Transport Corporation Limited
Salamedu, Villupuram. .. Respondent/Respondent

Prayer:
This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.12.2012 made in M.C.O.P.No.695 of 2010 on the file of Motor Accident Claims Tribunal, District Court, Tiruvannamalai.

For Appellants : Ms.A.Subadra for Ms.M.Malar

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 17.12.2012 made in M.C.O.P.No.695 of 2010 on the file of Motor Accident Claims Tribunal, District Court, Tiruvannamalai.

2.The appellants are claimants in M.C.O.P.No.695 of 2010 on the file of Motor Accident Claims Tribunal, District Court, Tiruvannamalai. They filed the said claim petition claiming a sum of Rs.20,00,000/- as compensation for the death of their son viz., Kasivel, who died in the accident that took place on 04.06.2010. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the respondent/Transport Corporation and directed the respondent to pay a sum of Rs.4,27,000/- as compensation to the appellants.

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3.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/ claimants contended that the deceased was aged 31 years at the time of accident and he was a bachelor. The Tribunal ought to have applied multiplier based on the age of the deceased instead of age of his mother. The deceased was working as a supervisor in a milk depot and was earning a sum of Rs.10,000/- per month. To prove the same, the appellants have examined P.W.3/Rajkumar, owner of the milk depot and marked Ex.P5/salary certificate. The Tribunal without considering the same, has fixed only a sum of Rs.4,500/- as monthly income of the deceased and not awarded any enhancement towards future prospects. The Tribunal has not awarded any amount towards loss of estate and mental agony. The amounts awarded by the Tribunal under the different heads are meagre and prayed for enhancement of compensation.

5.Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the accident is of the year 2010 and the amount fixed by the Tribunal towards monthly income of the deceased is not meagre. The Tribunal after considering all the materials available on record, has awarded just compensation. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondent 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 supervisor in milk depot and was earning a sum of Rs.8,000/- per month. They have examined P.W.3, owner of the milk depot and produced Ex.P5/salary certificate to prove the avocation and income of the deceased. From the evidence of P.W.3, it is seen that the deceased was working under him from 02.01.2005 to 04.06.2010 and was earning a sum of Rs.10,000/- per month. The Tribunal without considering the same, has fixed only a sum of Rs.4,500/- as notional monthly income of the deceased, which is meagre. The accident is of the year 2010 and a sum of Rs.6,500/- is fixed as monthly income of the deceased. The Tribunal has not awarded any enhancement towards future prospects. As per Ex.P3/post-mortem certificate, the deceased was aged 30 years at the time of accident and the appellants are entitled to 40% enhancement towards future prospects. The Tribunal has applied multiplier 11 considering the age of the mother of the deceased and the same is erroneous. The Tribunal

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ought to have considered the age of the deceased for applying multiplier. Therefore, the correct multiplier is 17. The Tribunal has deducted 1/3rd towards personal expenses, which is erroneous. The deceased was a bachelor at the time of accident and therefore, 50% has to be deducted towards personal expenses. The amount awarded by the Tribunal towards loss of earning is modified to Rs.9,28,200/- (Rs.6,500/- + 2,600 [Rs.6,500/- x 40%] x 12 x 17 x 1/2). In addition to that, the Tribunal has awarded a sum of Rs.10,000/- each towards loss of love and affection to the appellants, which is meagre. The appellants are entitled to a sum of Rs.40,000/- each towards loss of love and affection. The Tribunal has awarded a sum of Rs.10,000/- towards funeral expenses and transportation, which is meagre. Therefore, this Court awards a sum of Rs.10,000/- towards transportation and Rs.15,000/- towards funeral expenses. The Tribunal has not awarded any amount towards loss of estate and this Court awards a sum of Rs.15,000/- towards loss of estate. A sum of Rs.1,000/- awarded by the Tribunal towards damage to clothes is just and reasonable and the same is hereby confirmed.

8.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. 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 or reduced
1.	Loss of earning	3,96,000	9,28,200	Enhanced
2.	Funeral expenses and transportation	10,000	15,000 10,000	Enhanced
3.	Loss of love and affection	20,000	80,000	Enhanced
4.	Damage to clothes	1,000	1,000	Confirmed
5.	Loss of estate	-	15,000	Granted
	Total	4,27,000	10,49,200	Enhanced by Rs.6,22,200/-

9.In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.4,27,000/- is hereby enhanced to Rs.10,49,200/- together with interest at the

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rate of 7.5% per annum from the date of petition till the date of deposit. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. 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. On such deposit, the appellants/claimants are permitted to withdraw their respective share of the award amount as per the apportionment made by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kj

To

1. The District Judge
The Motor Accident Claims Tribunal
Tiruvannamalai.

Copy To
The Section Officer
V.R.Section, High Court, Chennai.

+1cc to Ms.M.Malar, Advocate, S.R.No.104123
+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.104332

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