

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.889 of 2013

1.S.Seethalakshmi

2.M.Saranya

3.S.Sundar

4.S.Jayalakshmi

.... Appellants/Petitioners

vs.

Metropolitan Transport Corporation

[Chennai Division] Ltd.,

Represented by its

Managing Director,

Pallavan Salai,

Chennai-600 002.

....Respondent/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 19.07.2012 made in M.A.C.T.O.P.No.1084 of 2010 on the file of the Motor Accidents Claims Tribunal/XVII Additional Judge, City Civil Court, Chennai.

For Appellants : Mr.R.Kalaiarasan

For Respondent : Mr.K.S.Suresh

JUDGMENT

The appellants are the claimants in M.C.O.P.No.1084 of 2010 on the file of the Motor Accident Claims Tribunal/XVII Additional Judge, City Civil Court, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.12,00,000/- for the death of one Subramaniam, husband of the first claimant, father of the claimants 2 and 3 and mother of the claimant 4 in a road accident on 21.01.2010.

2. The case of the claimants is that on 21.01.2010, at about 11.00 p.m., the deceased Subramaniam attempted to board a bus bearing Registration No.TN-01-N-5445, at Guindy bus stop and

that since the driver of the bus started moving the bus rashly and negligently without seeing the passenger getting into the bus, Subramaniam fell down from the bus, sustained fatal injuries and died in the hospital on the same day.

3. According to the claimants, the accident took place due to the rash and negligent driving of the driver of the bus bearing Registration No.TN-01-N-5445 belonging to the respondent / Metropolitan Transport Corporation and therefore, they are liable to pay compensation.

4. The learned Motor Accident Claims Tribunal/XVII Additional Judge, City Civil Court, Chennai, after analysing the evidence on record, awarded a compensation of Rs.5,16,000/- together with interest at the rate of 7.5% per annum to the claimants. Not being satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.R.Kalaiarasan, learned counsel appearing for the appellants / claimants specifically contended that though the deceased was working as an office assistant, earning a sum of Rs.6,000/- per month, the Tribunal fixed his notional income only as Rs.3,000/- per month. He further contended that no amount was awarded towards future prospects of the deceased. He therefore prayed for enhancement of compensation.

6. Per contra, Mr.K.S.Suresh, learned counsel appearing for the respondent / Metropolitan Transport Corporation contended that the Tribunal after considering all the aspects of the case, awarded a just compensation of Rs.5,16,000/- together with interest at the rate of 7.5% per annum and the same need not be disturbed at this stage.

7. In the claim petition, it is contended that the deceased Subramaniam was working as an Office Assistant, earning a sum of Rs.10,000/- per month. Since the accident took place in the year 2010, a sum of Rs.7,500/- is fixed as notional monthly income of the deceased. The Tribunal did not award any amount toward future prospects of the deceased, especially, when he was aged 48 years on the date of the accident. As per the decision of the Supreme Court of India in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC), 25% should be added towards future prospects of the deceased. Since there are four dependents, $\frac{1}{3}^{\text{rd}}$ of the income of the deceased should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 13 as per the decision rendered in Sarlaverma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. Calculation

Notional Income = Rs.7,500/-
25% Future Prospects = Rs.1,875/-
Total = Rs.7,500/- + Rs.1,875/- = Rs.9,375/-
After 1/3 deduction = Rs.6,250/-

Loss of dependency

= Rs.6,250/- x 12 x 13
= Rs.9,75,000/-

8. Apart from the above said amount, the appellants / claimants are entitled to a sum of Rs.15,000/-, Rs.40,000/- and Rs.15,000/- towards "loss of estate", "loss of love and affection" and "funeral expenses" respectively, as per the decision rendered in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601 (SC). The award passed by this Court under various heads is extracted hereunder:

S.No.	Head	Amount granted by this court
1.	Loss of dependency	Rs.9,75,000/-
2.	Loss of estate	Rs.15,000/-
3.	Loss of love and affection	Rs.40,000/-
4.	funeral expenses	Rs.15,000/-
	Total	Rs.10,45,000/-

9. Thus, the quantum of compensation awarded by the Tribunal is enhanced from Rs.5,16,000/- to Rs.10,45,000/- which would carry interest at the rate of 7.5% per annum.

10. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.5,16,000/- to Rs.10,45,000/-.

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any, within a period of three weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

(iv) The respondent / Metropolitan Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.10,45,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1084 of 2010 on the file of the Motor Accident Claims Tribunal/XVII Additional Judge, City Civil Court, Chennai, within a period of four weeks from the date of receipt of a copy

of this Judgment.

(v) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the Orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Ssn

To

1. The Motor Accidents Claims Tribunal,
XVII Additional Judge,
City Civil Court,
Chennai.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

+lcc to Mr.N.M.Muthurajan, Advocate, S.R.No. 94939
+lcc to Mr.K.S.Suresh, Advocate, S.R.No. 95376

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CA (CO)
GN(16/10/2020)

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