

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2719 of 2016

1.A.Jailabudeen
2.J.Jabarnisha
3.J.Roja Parveen

.. Appellants/Claimants

Vs.

1.Dinesh Kumar

2.The Manager,
Tamil Nadu State Transport Corporation Limited
Coimbatore Branch
Officer at No.37
Mettupalayam road
Coimbatore - 43.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.03.2013 made in M.C.O.P.No.144 of 2012 on the file of Motor Accident Claims Tribunal, IVth Additional District and Sessions Court, Coimbatore.

For Appellants : Mr.N.S.Suganthan for
Mr.N.Manokaran

For R2 : Mr.K.J.Sivakumar

J U D G M E N T
सत्यमेव जयते

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 06.03.2013 made in M.C.O.P.No.144 of 2012 on the file of Motor Accident Claims Tribunal, IVth Additional District and Sessions Court, Coimbatore.

2.The appellants are claimants in M.C.O.P.No.144 of 2012 on the file of Motor Accident Claims Tribunal, IVth Additional District and Sessions Court, Coimbatore. They filed the said claim petition claiming a sum of Rs.50,00,000/- as compensation for the death of one Yasar Arafath, who died in the accident that took place on 07.08.2010. The Tribunal considering the

pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the 1st respondent/driver of the bus belonging to the 2nd respondent/Transport Corporation and directed the 2nd respondent to pay a sum of Rs.7,42,000/- as compensation to the appellants.

3. Not being satisfied with the amounts 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 23 years at the time of accident and the Tribunal ought to have applied multiplier 18 based on the age of the deceased instead of applying multiplier 13 taking the age of his mother. The claim petition was filed under Section 166 of the Motor Vehicles Act and hence, the multiplier method given in the II Schedule need not be followed and ought to have awarded just compensation. The Tribunal has not awarded any enhancement towards future prospects and the appellants are entitled to 50% enhancement towards future prospects. 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 2nd respondent/Transport Corporation contended that the Tribunal after considering all the materials available on record, has awarded just compensation, which is not meagre. 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 2nd respondent and perused all the materials available on record.

7. It is the contention of the appellants that the deceased was earning a sum of Rs.1,08,000/- per annum as Process Executive in M/s.Login Technology Solutions India Private Limited, Coimbatore. He has completed M.B.A. in Kumarasamy College, Karur. To prove the same, the appellants examined P.W.2/Baraneedharan, co-employer of the deceased and marked Exs.P11 to P14/certificates. Considering the above materials, the Tribunal has fixed a sum of Rs.1,08,000/- per annum as income of the deceased, which is proper. The Tribunal has not awarded any enhancement towards future prospects. The deceased was aged 23 years at the time of accident and the appellants are entitled to 40% enhancement towards future prospects. The Tribunal has applied multiplier 13 considering the age of the mother of the deceased and the same is erroneous. The Tribunal ought to have applied multiplier 18 taking into consideration

the age of the deceased. The deceased was a bachelor at the time of accident and therefore, the Tribunal has rightly deducted 50% towards personal expenses. The amount awarded by the Tribunal towards loss of earning is modified to Rs.13,60,800/- (Rs.1,08,000/- + 43200 [Rs.1,08,000/- x 40%] x 18 x 1/2). In addition to that, the Tribunal has awarded a sum of Rs.15,000/- and Rs.5,000/- towards loss of love & affection and funeral expenses respectively, which are meagre. The appellants are entitled to a sum of Rs.40,000/- and Rs.15,000/- towards loss of love & affection and funeral expenses respectively. 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.2,000/- awarded by the Tribunal towards transportation is not excessive and the same is 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 or reduced
1.	Loss of earning	7,20,000	13,60,800	Enhanced
2.	Funeral expenses	5,000	15,000	Enhanced
3.	Loss of love and affection	15,000	40,000	Enhanced
4.	Transportation	2,000	2,000	Confirmed
5.	Loss of estate	-	15,000	Granted
	Total	7,42,000	14,32,800	Enhanced by Rs.6,90,800/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,42,000/- is hereby enhanced to Rs.14,32,800/- together with interest at the 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 2nd 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

The IV Additional District and Sessions Judge
The Motor Accident Claims Tribunal
Coimbatore.

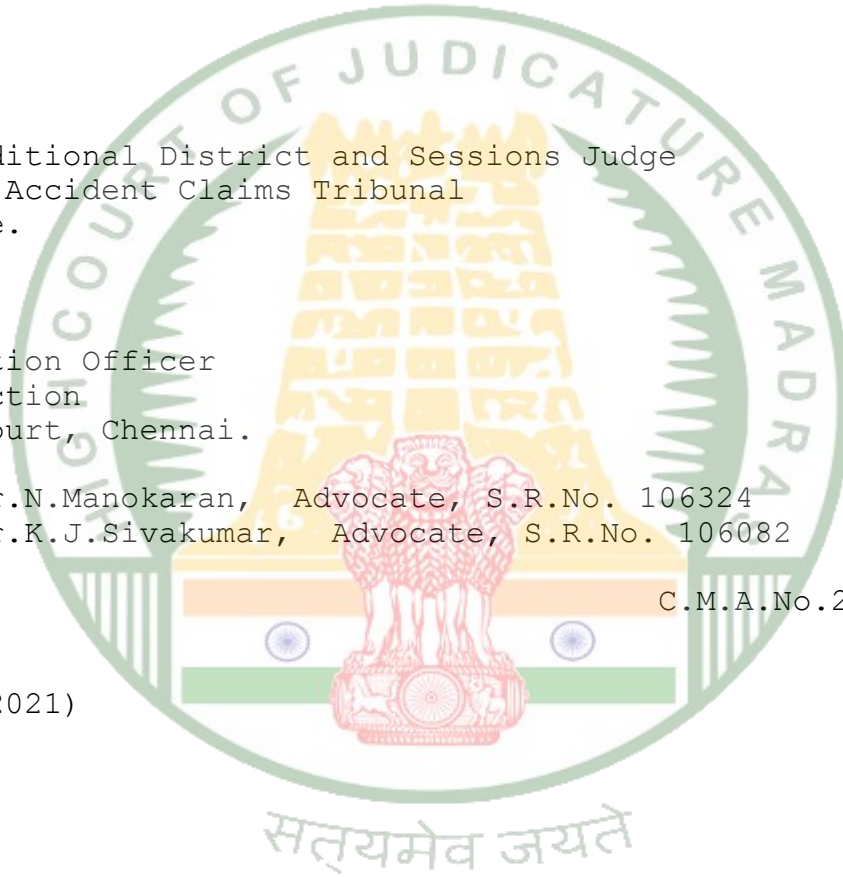
Copy To

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

+1cc to Mr.N.Manokaran, Advocate, S.R.No. 106324
+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No. 106082

C.M.A.No.2719 of 2016

SSI (CO)
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