

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

C.M.A.No.1392 of 2018

1.S.Shanthi
2.S.Saravanan
3.S.Sabarinathan
4.U.Vijayalakshmi

... Appellants/Claimants

Vs.

The Managing Director,
TNSTC (Villupuram Divisional - I),
No.3/137, Salamedu, Vazhudhareddy Post,
Villupuram - 605 602.

... Respondent/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 03.02.2018 made in M.C.O.P.No.1355 of 2017, on the file of Motor Accident Claims Tribunal Judge, Special Sub Judge, Cuddalore by enhancing the award amount.

For Appellant : Mr.R.Sreedhar
For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

The Criminal Miscellaneous Appeal has been preferred against the judgment and decree dated 03.02.2018 made in M.C.O.P.No.1355 of 2017, on the file of Motor Accident Claims Tribunal Judge, Special Sub Judge, Cuddalore by enhancing the award amount.

2. The brief facts relating to the claim application are as follows:

On 21.11.2016 at about 20.00 hours, when the deceased was walking on the extreme left of Villupuram to Puducherry Road at Koliyanur Bus Stop, the respondent TNSTC Bus bearing Registration No.TN-32-N-3565 was came from west to east, at a greater speed. The respondent bus was without making horn and dashed against the deceased in a rash and negligent manner. The deceased was thrown out and fatally injured and died on the spot. The claimants Aggrieved against the award made by the Tribunal at Rs.6,89,250/- against the claim of Rs.20,00,000/-. The appellant contended that the Tribunal has

paid to consider the fact that the deceased was running a hair dressing shop at a Koliyanur Bazhar and he as a owner of the shop and earning Rs.20,000 per month. The Tribunal has not considered the same.

3. When the claimant are very much Aggrieved against the award made by the Tribunal and vehemently contended that there is a clear evidence that the deceased was 55 years at the time of accident and he was running own saloon and he was earning Rs.20,000/- per month and this aspect were not considered by the Tribunal.

4. Heard Mr.R.Sreedhar, learned Counsel appearing for the appellant and Mr.K.J.Sivakumar, learned Counsel appearing for the respondent and perused the materials available on record.

5. It is observed that the claim made under the head as loss of income at Rs.20,000/-. The appellant have not furnished any relevant documents for running a saloon shop. Hence, the Tribunal has taken income of the deceased at Rs.5,000/- per month by considering the age of the deceased was 55 years. On the other hand, the respondent/Transport Corporation contended that without any proof of occupation, the assessment of income made by the Tribunal at Rs.5,000/- is higher excessive and the future prospect is 15%. The deceased is a 55 years old. The award assessed by the Tribunal in that aspect by taking his income at Rs.5,000/- and future prospect is 15% which need to be set aside.

6. On perusal of records and the assessment made by the Tribunal for the same determination by the Tribunal is Rs.5,000 is meagre, hence this Court fix the monthly income at Rs.6,000/- and the future prospect ought to have been considered only to the extent of 10%. Since the deceased is 55 years old man, 10% of the future prospect has to be added along with his income, has applying a proper multiplier of 11 after deducting 1/3 for the personal expenses and the contribution to the family members has to be modified has Rs.5,80,800/- ($6600 \times 12 \times 11 \times 2/3$). The appellant claimant contended that when the first claimant is the wife, aged about 50 years and the first claimant has lost her life not only love and affection, care and support through out of his life has been very much affected. It is observed that the Tribunal has awarded a sum of Rs.40,000/- under two heads as consortium and loss of estate. The Tribunal ought to have considered reasonably. The sum awarded by the Tribunal loss of love and affection at Rs.50,000/- for the claimants 2 to 4. The sum is very much reasonable and that does not required any modification to the sum awarded for funeral expenses at Rs.15,000/- and the sum awarded for transportation expenses are very much reasonable. The other heads are not altered. 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)
1.	Loss of Income	5,69,250	5,80,800
2.	Loss of Consortium and loss of estate	40,000	40,000 (loss of consortium)
3.	Loss of Funeral expenses	15,000	15,000
4.	Loss of estate	-	10,000
5.	Love and affection	50,000	50,000
6.	Transportation	15,000	15,000
	Total	Rs.6,89,250/-	Rs.7,10,800/-

7. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,89,250/- is enhanced to Rs.7,10,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. No Costs.

8. The appellant/claimant are directed to 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant are permitted to withdraw the enhanced award amount along with proportionate interest and costs, on the basis of the apportionment inclined by the Tribunal, less the amount if any, already withdrawn.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Jas

To

1.The Motor Accident Claims Tribunal,
Special Sub Judge,
Cuddalore.

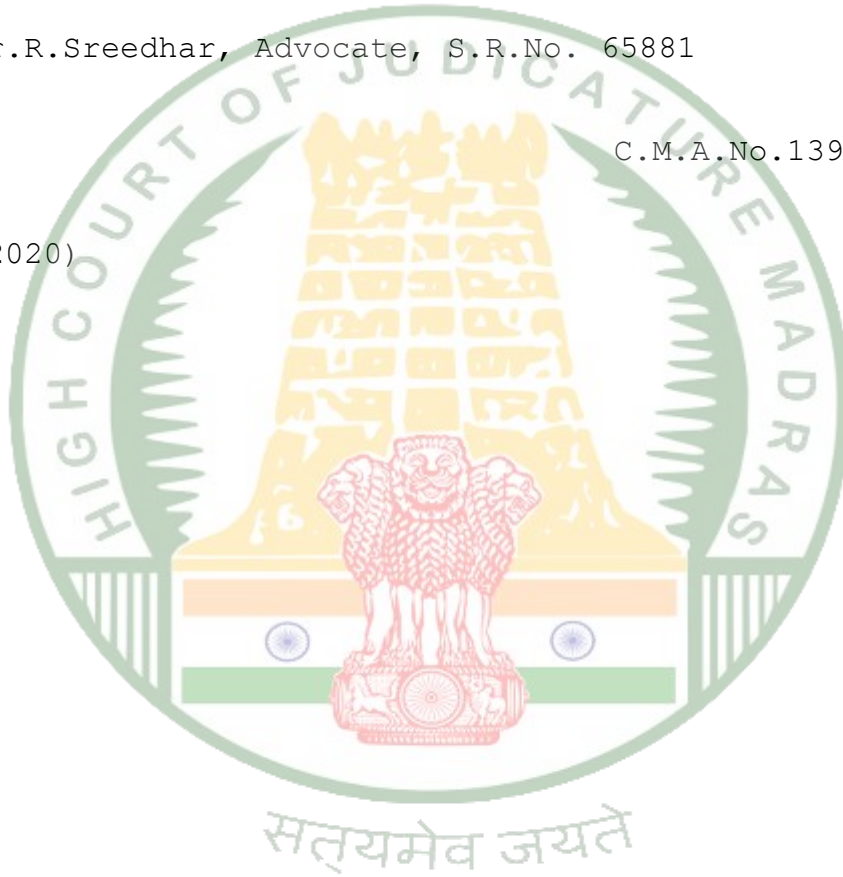
Copy To

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

+1cc to Mr.R.Sreedhar, Advocate, S.R.No. 65881

C.M.A.No.1392 of 2018

NR(CO)
GN(05/11/2020)



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