

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1998 of 2019

1.Kannammal

2.Suguna @ Sugunavalli

3.Pushpa @ Pushpavalli

4.Kavitha

.. Appellants/Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road, Salem - 636 007.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 18.12.2018 made in M.C.O.P.No.12 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondent : Mr.D.Venkatachalam

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellants/claimants seeking enhancement of compensation granted by the Tribunal in the award dated 18.12.2018 made in M.C.O.P.No.12 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode.

2.By consent of both the learned counsel appearing for the appellants and respondent, the appeal is taken up for filing at the stage of admission itself.

3.The appellants are claimants in M.C.O.P.No.12 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruchengode. They filed the said claim petition claiming a sum of Rs.25,00,000/- as compensation for the death of one Karunanidhi, who died in the accident that took place on 15.09.2014. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to

the respondent/Transport Corporation and directed the respondent/Transport Corporation to pay a sum of Rs.4,33,000/- as compensation to the appellants. 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 contended that the Tribunal having held that the accident has occurred only due to rash and negligent act of the driver of the respondent bus, awarded meagre amount as compensation. The deceased was working as a watchman and was earning a sum of Rs.10,000/- per month. The deceased was aged about 65 years at the time of accident. The 1st appellant has lost her husband and the appellants 2 to 4 have lost their loving father. Due to the death of the deceased, the appellants have suffered day to day expenses and other needs. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of compensation.

5.Per contra, Mr.D.Venkatachalam, learned counsel appearing for the respondent-Transport Corporation contended that the appellants have not filed any documents to prove the age, income and avocation of the deceased. In the absence of any materials, the Tribunal erroneously fixed age of the deceased as 65 years and granted compensation excessively. In view of the same, the appellants are not entitled for any enhancement and prayed for dismissal of the appeal.

6.Heard the learned counsel appearing for the appellants as well as the respondent-Transport Corporation 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 aged 65 years. The deceased was working as a watchman and was earning a sum of Rs.10,000/- per month. The appellants have failed to produce the documents to substantiate the said contention. In the absence of any material, the Tribunal has fixed notional income of the deceased at Rs.6,000/- per month. Considering the entire materials on record, the notional income fixed by the Tribunal is not meagre. The appellants are not entitled to any enhancement towards loss of dependency. The Tribunal has not awarded any amount towards loss of consortium to the 1st appellant. Hence a sum of Rs.40,000/- is granted towards loss of consortium to the 1st appellant, who is the wife of the deceased. The Tribunal has not awarded any amount towards loss of estate. A sum of Rs.15,000/- is granted towards loss of estate. A sum of Rs.40,000/- and Rs.15,000/- awarded by the Tribunal towards loss of love and affection and funeral expenses respectively are 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
1.	Loss of dependency	3,78,000	3,78,000	Confirmed
2.	Loss of consortium (to the 1 st appellant)	-	40,000	Granted
3.	Loss of love and affection	40,000	40,000	Confirmed
4.	Funeral expenses	15,000	15,000	Confirmed
5.	Loss of estate	-	15,000	Granted
	Total	Rs.4,33,000 /-	Rs.4,88,000/-	Enhanced by Rs.55,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,33,000/- is hereby enhanced to Rs.4,88,000/- together along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants/claimants 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 twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their respective share of the award amount, as per the apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mtl

To
1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruchengode.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+2 Ccs to Mr.C. Paraneedharan, Advocate sr 30395.
+1 CC to Mr.D.Venkatachalam, Advocate sr 31165.

C.M.A.No.1998 of 2019

SSD(CO)
SP(25/07/2019)



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