

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.777 of 2018

1.Venkatalakshmi

2.D.Kudiyarasu

.. Appellants

Vs.

The Managing Director,
Metro Transport Corporation Limited,
Pallavan House,
Anna Salai, Chennai - 600 002.

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.12.2017 made in M.C.O.P.No.4320 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

For Appellants : Mr.K.Varadha Kamaraj
For Respondent : Mr.S.Sivakumar

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 04.12.2017 made in M.C.O.P.No.4320 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

2.By consent of both the learned counsel appearing for the appellant and respondent-Transport Corporation, the appeal is taken up for final disposal at the stage of admission itself.

3.The appellants/claimants filed M.C.O.P.No.4320 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai, claiming a sum of Rs.12,00,000/- as compensation for the death of their son viz., Murugavel, who died in the accident that took place on 10.09.2014. 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-Transport Corporation to pay a sum of Rs.1,80,000/- as compensation to the appellants/claimants. 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 erred in awarding a meagre sum of Rs.1,50,000/- under the head of pecuniary loss as against the judgment of the Hon'ble Apex Court. The Tribunal ought to have awarded amount towards future prospects. The Tribunal has not awarded any amount towards loss of love and affection and prayed for enhancement of compensation.

5.Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal considering the judgment of the Hon'ble Apex Court reported in 2014 (1) TNMAC 481 in the case of Puttamma & Others Vs K.L.Narayana Reddy & Another, has awarded compensation of Rs.1,50,000/- towards pecuniary loss, which is proper. The amount awarded by the Tribunal under different heads are not meagre 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 the materials available on record.

7.From the materials on record, it is seen that the Tribunal has awarded a sum of Rs.1,50,000/- under the head of pecuniary loss. The appellants have filed claim petition, claiming compensation for the death of their minor son aged 11 years. The Hon'ble Apex Court taking into consideration the passage of time from the date of II Schedule of the Motor Vehicles Act and the rise in cost of living, has fixed a sum of Rs.30,000/- per annum as the notional income of the deceased minor and applied the multiplier '15'. This Court in some of the cases fixed a sum of Rs.45,000/- per annum as income for the deceased minor. Considering the rise in cost of living, the notional income of the deceased is fixed at Rs.30,000/- per annum and applying the multiplier '15', a sum of Rs.4,50,000/- is awarded towards pecuniary loss. The Tribunal has not awarded any amount towards loss of love and affection and this Court awards a sum of Rs.40,000/- towards loss of love and affection to the appellants. The amounts granted by the Tribunal under the heads of loss of estate and funeral expenses are just and reasonable and they are 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
1.	Pecuniary loss	1,50,000/-	4,50,000/-	enhanced
2.	Loss of estate	15,000/-	15,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of love and affection	-	40,000/-	granted
	Total	1,80,000/-	5,20,000/-	Enhanced by Rs.3,40,000/-

8. In the result, the appeal is partly allowed and amount granted by the Tribunal at Rs.1,80,000/- is enhanced to Rs.5,20,000/- along with interest and costs. The respondent-Transport Corporation is directed to deposit the enhanced award amount 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, to the credit of M.C.O.P.No.4320 of 2015. On such deposit, the appellants are permitted to withdraw their respective shares of the award amount, on the basis of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. The appellants are directed to pay difference in Court fee if any within a period of two weeks from the date of receipt of a copy of this judgment. No costs.

s/d-

Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

mtl

To
1. The Chief Judge,
Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

+1 CC to Mr.S.Sivakumar, Advocate sr 23381.
+1 CC to Mr.K.Varadha Kamaraj, Advocate sr 23100.

C.M.A.No.777 of 2018

KS (CO)
SP (03/02/2020)



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