

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3502 of 2019

1.Selvi

2.Loganayaki

.. Appellants/Petitioners

Vs.

The Managing Director,

Tamil Nadu State Transport Corporation Limited,

Villupuram.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.04.2018 made in M.C.O.P.No.191 of 2015 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Kallakurichi.

For Appellants : Mr.R.Nalliyappan

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 06.04.2018 made in M.C.O.P.No.191 of 2015 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Kallakurichi.

2.The appellants are the claimants in M.C.O.P.No.191 of 2015 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Kallakurichi. They filed the above said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the death of one Manickam @ Soundiram, who died in the accident that took place on 15.11.2012.

3.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.5,83,000/- as compensation to the appellants.

4. Not being satisfied with the amount granted by the Tribunal, the appellants have come out with the present appeal.

5. The learned counsel appearing for the appellants contended that the deceased was a Rice Merchant and was earning a sum of Rs.50,000/- per month at the time of accident. The Tribunal fixed a sum of Rs.6,000/- as monthly income of the deceased, which is meagre. The deceased was aged 53 years at the time of accident and the Tribunal has not granted any enhancement towards future prospects. The Tribunal failed to grant any amount towards loss of estate, transportation and mental agony. The total compensation granted by the Tribunal under other heads are also meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the appellants did not let in any material evidence to prove that the deceased was earning a sum of Rs.50,000/- per month at the time of accident. In the absence of any material evidence to substantiate their contention, the Tribunal rightly fixed a sum of Rs.6,000/- as monthly income, which is not meagre. The appellants are not entitled to any enhancement towards future prospects. The amount awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

7. Heard the learned counsel for the appellants as well as the respondent-Transport Corporation and perused the entire materials on record.

8. From the materials available on record, it is seen that the appellants have contended that the deceased was a Rice Merchant and was earning a sum of Rs.50,000/- per month at the time of accident. The appellants failed to prove the said contention. In the absence of material evidence with regard to avocation and income of the deceased, the Tribunal fixed notional income of the deceased at Rs.6,000/- per month. The accident occurred in the year 2012 and the notional monthly income fixed by the Tribunal is meager. Therefore, a sum of Rs.7,500/- is fixed by this Court as monthly income of the deceased. The deceased was aged 53 years at the time of accident and the Tribunal has not granted any enhancement towards future prospects. The appellants are entitled to 10% enhancement towards future prospects. Applying the multiplier '11' and after deducting 1/3rd towards the personal expenses of the deceased, the compensation granted by the Tribunal towards loss of income

is modified to Rs.7,26,000/- {[Rs.7,500/- + Rs.750/- (10% of Rs.7,500/-)] X 12 X 11 X 2/3}. The Tribunal has awarded a sum of Rs.25,000/- towards funeral expenses, which is excessive and the same is hereby reduced to Rs.15,000/-. The Tribunal has awarded a sum of Rs.15,000/- towards loss of consortium to the first petitioner/appellant which is meagre and the same is hereby enhanced to Rs.40,000/-. The Tribunal has not granted any amount towards loss of estate. Hence, a sum of Rs.15,000/- is granted by this Court towards loss of estate. The amount awarded by the Tribunal towards loss of love and affection to the second petitioner/appellant 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
1.	Loss of income	5,28,000/-	7,26,000/-	Enhanced
2.	Funeral expenses	25,000/-	15,000/-	Reduced
3.	Loss of consortium to the first appellant	15,000/-	40,000/-	Enhanced
4.	Loss of love and affection to the second appellant	15,000/-	15,000/-	Confirmed
5.	Loss of estate	-	15,000/-	Granted
	Total	Rs.5,83,000/-	Rs.8,11,000/-	enhanced by Rs.2,28,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,83,000/- is hereby enhanced to Rs.8,11,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. 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 enhanced award amount now determined by this Court, as

per the ratio of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar(CS-III)

True Copy
Sub-Assistant Registrar

krk

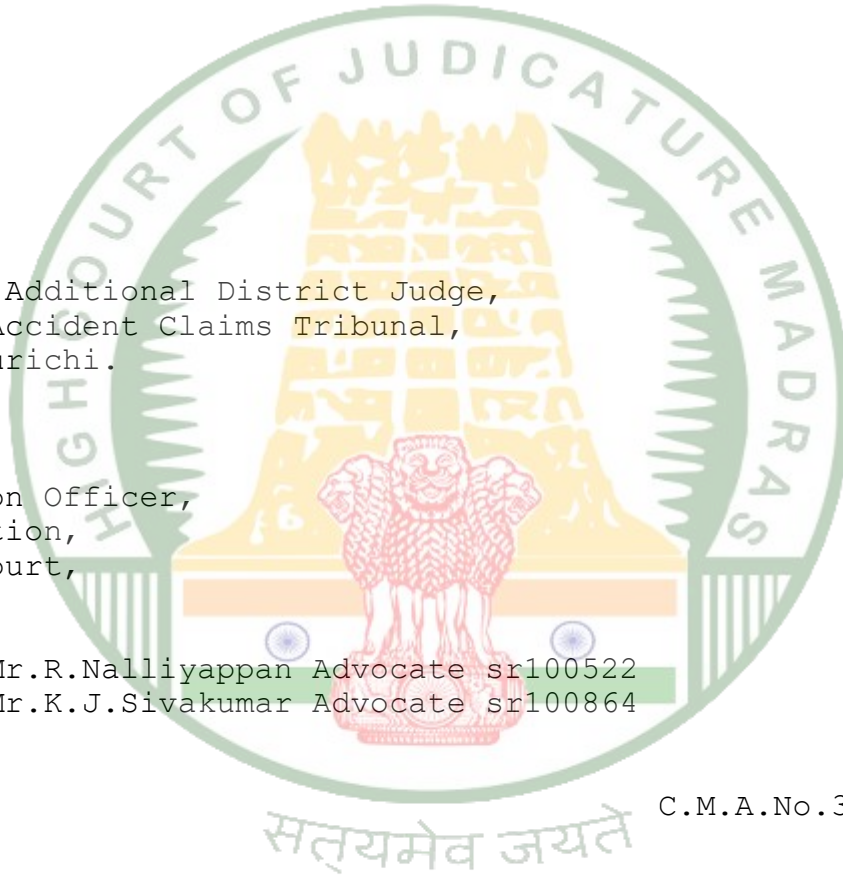
To

1.The III Additional District Judge,
Motor Accident Claims Tribunal,
Kallakurichi.

Copy to

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

+1 cc to Mr.R.Nalliyappan Advocate sr100522
+1 cc to Mr.K.J.Sivakumar Advocate sr100864



C.M.A.No.3502 of 2019

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