

C.M.P.No.20460 of 2019 in
C.M.A. (SR) No.102918 of 2019

R.MAHADEVAN, J.

By the impugned judgment dated 07.01.2016 passed in MCOP.No.180/2011, the Tribunal has awarded a compensation of Rs.8,83,000/- as against the claim of Rs.10,00,000/- made by the petitioners, who are the wife, children and mother of one Jayapaul, who died in a motor vehicle accident that had occurred on 16.07.2011.

2. Being dissatisfied with the quantum so awarded by the Tribunal, the petitioners/appellants/claimants have filed an appeal in SR.No.102918/2019 seeking enhancement of the same. They have also taken out an application in CMP.No.20460 of 2019 praying to amend the claim amount from Rs.10,00,000/- to Rs.14,00,000/- wherever it is found, stating that they are entitled to more compensation than what was claimed in the claim petition and what was awarded by the Tribunal.

3. Heard both sides.

4. The learned counsel for the petitioners/ appellants/claimants, who, after reiterating the averments made in the affidavit filed in support of this petition, submitted that the petitioners undertake to pay the required court fee for the enhanced compensation, in the event of succeeding in the appeal.

5. The learned standing counsel for the sole respondent / Transport Corporation submitted that the entire compensation amount as awarded by the Tribunal has been deposited before the Tribunal and stated No Objection for ordering this petition.

6. Further, it is also to be noted herein that in the case of **Nagappa v. Gurudayal Singh and others [2004 (2) TNMAC 398 (SC)]**, at paragraph 21, it was held as follows:

"21.For the reasons discussed above, in our view, under the Motor Vehicles Act, there is no restriction that Tribunal/Court cannot award compensation amount exceeding the claimed amount. The function of the Tribunal/Court is to award 'Just' compensation which is reasonable on the basis of evidence produced on record. Further, in such cases, there is no question of claim becoming time barred or it cannot be contended that by enhancing the claim there would be change of cause of action. It is also to be stated that as provided under sub section (4) to Section 166, even report submitted to the Claims Tribunal under sub section (6) of Section 158 can be treated as an application for compensation under the M.V. Act. If required, in appropriate cases, Court may permit amendment to the Claim Petition."

7.Considering the facts and circumstances of the case, in the light of the decision of the Supreme Court (cited supra) and in view of the No Objection stated by the learned counsel for the respondent, this Court is inclined to allow this petition. Accordingly, this petition is allowed as prayed for.

04.11.2019

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and C.M.A.SR.No.102918 of 2019