

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No. 4574 of 2019

1.Murugavel
2.Thulasi

.. Appellants/ Petitioner

Vs.

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

.. Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 20.09.2017, made in M.C.O.P.No. 374 of 2014, on the file of the Sub Court, (Motor Accident Claims Tribunal), Tiruttani.

For Appellants : Mr.K.Suryanarayanan
for Amar Dineshbhai Pandiya
G.vijaya kumar
For Respondent : Mr.S.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants-claimants, seeking enhancement of the compensation granted by the award dated 20.09.2017, made in M.C.O.P.No. 374 of 2014, on the file of the Sub Court, (Motor Accident Claims Tribunal), Tiruttani.

2.The appellants-claimants filed M.C.O.P.No. 374 of 2014, on the file of the Sub Court, (Motor Accident Claims Tribunal), Tiruttani, claiming a sum of Rs.20,00,000/- as compensation for the death of their son viz., Dinesh @ Dineshkumar in the accident that took place on 14.02.2014.

3.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.7,50,000/-

as compensation to the appellants.

4. Not being satisfied with the amount awarded by the Tribunal in the award dated 20.09.2017, made in M.C.O.P.No. 374 of 2014, the appellants have come out with the present appeal.

5. The learned counsel appearing for the appellants contended that the deceased was 21 year old B.E. Civil Engineering Student and the appellants have produced Exs.P11 and P12, certificates of proof for the same. The Tribunal without considering the materials on record, cost of living, year of the accident, has erroneously fixed a meagre sum of Rs.24,000/- as notional annual income and failed to grant any amount towards future prospects. The amounts awarded by the Tribunal under other heads are meagre and prayed for enhancement of the compensation.

6. Per contra, Mr.K.J.Sivakumar, learned counsel appearing for the respondent-Transport Corporation contended that the appellants have not filed any documents to prove the avocation and income of the deceased. In the absence of material evidence, the Tribunal has fixed a sum of Rs.24,000/- as notional annual income and awarded compensation under different heads. The Tribunal has granted an excessive sum of Rs.3,00,000/- towards loss of love and affection. In view of the same, the appellants are not entitled for any enhancement and prayed for dismissal of the appeal.

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

8. From the award of the Tribunal, it is seen that the appellants have contended that the deceased was a B.E. Civil Engineering student, aged 21 years. To prove the same, the appellants have marked college identity card and transfer certificate as Exs.P11 and P12. The accident is of the year 2014. The Tribunal without considering the materials on record, fixed meagre sum of Rs.24,000/- as annual income of the deceased. The deceased was a B.E. Graduate. After his studies, he would have got a decent job with higher salary. Hence, a sum of Rs.8,500/- is fixed as monthly income of the deceased. The Tribunal failed to grant any amount towards future prospects. The appellants are entitled to 40% enhancement towards future prospects. The deceased was a bachelor. Hence, deducting 50% towards the personal expenses of the deceased and applying the multiplier of '18', the amount granted towards dependency is modified to Rs.12,85,200/- {[Rs.8,500/- + Rs.3,400/- (40% of Rs.8,500/-)] x 12 x 18 x $\frac{1}{2}$ }. The Tribunal has granted excessive amount towards loss of love and affection. The appellants are entitled to Rs.40,000/- each towards loss of love and affection.

The amount awarded by the Tribunal towards funeral expenses is meagre and the same is enhanced to Rs.15,000/-. The Tribunal has not awarded any amount towards loss of estate. Hence, a sum of Rs.15,000/- is granted towards the said head. 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.	Dependency	4,40,000/-	12,85,200/-	enhanced
2.	Loss of love and affection	3,00,000/-	80,000/-	reduced
3.	Funeral expenses	10,000/-	15,000/-	enhanced
4.	Loss of estate	-	15,000/-	granted
	Total	7,50,000/-	13,95,200/-	Enhanced by Rs.6,45,200/-

9. In the result, the appeal is partly allowed and amount awarded by the Tribunal at Rs.7,50,000/- is enhanced to Rs.13,95,200/- along with interest and costs. The respondent-Transport Corporation is directed to deposit the enhanced award amount, now determined by this Court, along with interest and costs, 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.374 of 2014. On such deposit, the appellants/claimants are directed to withdraw the enhanced award amount equally along with proportionate interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. It is made clear that the appellants/claimants are not entitled for any interest for the delay period on the amount of Rs.6,45,200/-, enhanced by this Court, as per the order of this Court dated 15.11.2019 made in C.M.P. No. 22267 of 2019 in C.M.A. (SR). No. 128500 of 2019. No costs.

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Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

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

2.The Subordinate Judge,
(Motor Accident Claims Tribunal),
Tiruttani.

3.The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan House, Anna Salai,
Chennai 600 002.

+lcc to Mr.Amar Dineshbhai Pandiya , Advocate SR.No. 101539

+lcc to Mr.S.Sivakumar , Advocate SR.No. 10153

C.M.A.No.4574 of 2019

A.SK(24/11/2020)



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