

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.958 of 2017

1. Molly George
2. A.J.George

.. Appellants/Claimants

Vs.

The Managing Director,
M.T.C. Limited,
Pallavan 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 03.12.2007, made in M.C.O.P.No.181 of 2006, on the file of the Additional District & Sessions Judge, Fast Track Court - IV, (Motor Accident Claims Tribunal), Poonamallee.

For Appellants : Mrs. Y.Jayanthi Bhaskar,
for M/s. J.Mahalingam

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 03.12.2007, made in M.C.O.P.No.181 of 2006, on the file of the Additional District & Sessions Judge, Fast Track Court - IV, (Motor Accident Claims Tribunal), Poonamallee.

2.The appellants-claimants filed M.C.O.P.No.181 of 2006, on the file of the Additional District & Sessions Judge, Fast Track Court - IV, (Motor Accident Claims Tribunal), Poonamallee, claiming a sum of Rs.5,00,000/- as compensation for the death of their daughter, A.G.Priyanga who died in the accident that took place on 17.11.2005.

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. After such conclusion, the Tribunal fixed the annual income of the deceased minor at Rs.15,000/- and applying multiplier '10', awarded a sum of Rs.1,50,000/- towards loss of expectation of life. In addition to that, sum of Rs.10,000/- and Rs.4,000/- were granted towards loss of love and affection and funeral expenses respectively and directed the respondent to pay the sum of Rs.1,64,000/- as compensation to the appellants.

4.Not being satisfied with the amounts granted by the Tribunal in the award dated 03.12.2007, made in M.C.O.P.No.181 of 2006, the appellants have come out with the present appeal.

5.Learned counsel appearing for the appellants contended that the total compensation awarded by the Tribunal is meagre. Applying multiplier '15', for the death of minors below 5 years, the Hon'ble Apex Court and this Court have awarded compensation of a sum of Rs.75,000/- towards non-pecuniary loss and a sum of Rs.75,000/- towards loss of future prospects. The amounts awarded for loss of love and affection and funeral expenses are meagre. In any event, the total compensation granted by the Tribunal is meagre and prayed for enhancement of the same.

6.Per contra, learned counsel appearing for the respondent contended that the Tribunal has taken into consideration the age of the minor and awarded compensation of Rs.1,50,000/- towards loss of expectation. The accident is of the year 2005. The total compensation awarded by the Tribunal is not meagre. The appellants have not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

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

8.From the materials on record, it is seen that the accident has occurred in the year 2005. The Tribunal after fixing the annual income of the deceased minor at Rs.15,000/-, applied the multiplier '10'. The same is not correct. Considering the fact that the deceased minor was studying in well-reputed school and could have got job with

decent income after completion of studies and would have contributed amounts to the appellants who are the parents of the deceased, the multiplier '15' ought to have been applied by the Tribunal to arrive at the compensation for loss of income. Hence, the amount awarded towards loss of expectation is modified to Rs.2,25,000/- [Rs.15,000/- x 15]. The appellants are parents of the deceased minor and they have lost their minor daughter at her young age. A sum of Rs.10,000/- awarded by the Tribunal for loss of love and affection in these circumstances is too meagre and it is hereby enhanced to Rs.40,000/-. Also, the sum of Rs.4,000/- awarded towards funeral expenses is meagre. The same is enhanced to Rs.15,000/-. The Tribunal failed to award 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.	Loss of expectation	1,50,000/-	2,25,000/-	enhanced
2.	Loss of love and affection	10,000/-	40,000/-	Enhanced
3.	Funeral expenses	4,000/-	15,000/-	enhanced
4.	Loss of estate	-	15,000/-	granted
	Total	1,64,000/-	2,95,000/-	Enhanced by Rs.1,31,000/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.1,64,000/- is enhanced to Rs.2,95,000/- along with interest and costs. However, it is made clear that the appellants are not entitled for any interest for the period, 2009 - 2013 as per the order of this Court dated 07.03.2017 made in M.P. No. 1 of 2013 in C.M.A. SR. 1245 of 2013. The respondent is directed to deposit the enhanced award amount along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.181 of 2006. On such deposit, the appellants/claimants are permitted to withdraw the enhanced award amount equally among themselves

along with interest and costs, less the amount already withdrawn if any, by filing necessary application before the Tribunal. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

gsa

To

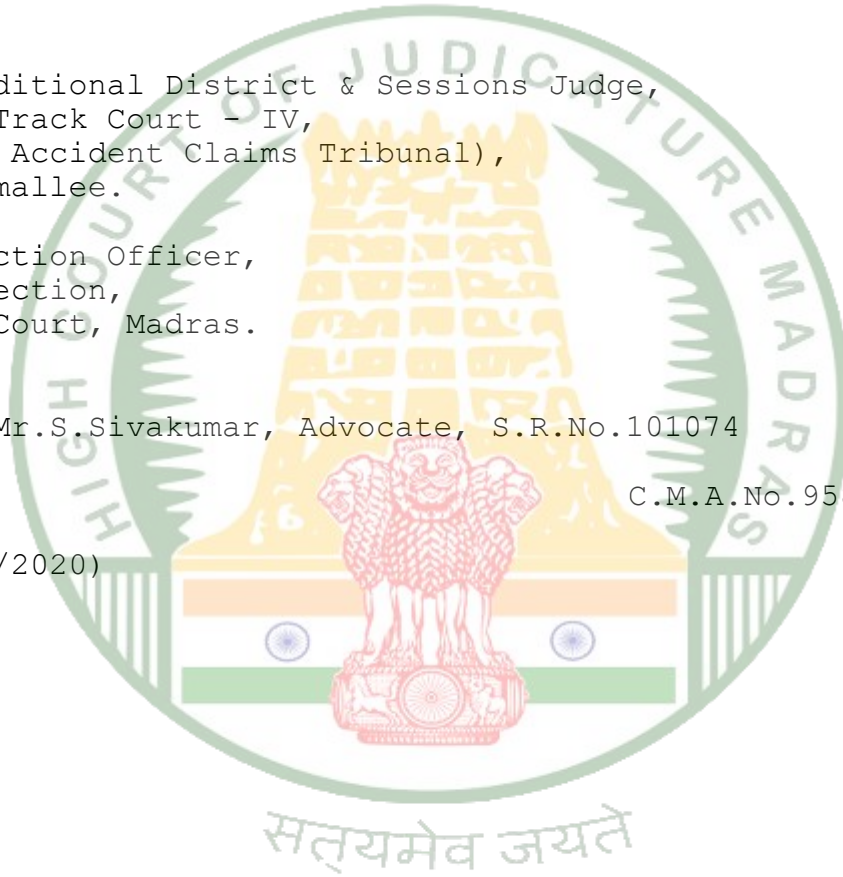
1.The Additional District & Sessions Judge,
Fast Track Court - IV,
(Motor Accident Claims Tribunal),
Poonamallee.

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

+1cc to Mr.S.Sivakumar, Advocate, S.R.No.101074

C.M.A.No.958 of 2017

VBA(CO)
CB(14/08/2020)



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