

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.98 of 2020

Shanthi

... Appellant/Petitioner

Vs.

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Erode.

... Respondent/Respondent

(respondent remained exparte before the Tribunal)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.08.2017 made in M.C.O.P.No.215 of 2013 on the file of the Motor Accident Claims Tribunal, Principal District Court, Namakkal.

For Appellant : Mr.N.Eswaran

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 of the award dated 31.08.2017 made in M.C.O.P.No.215 of 2013 on the file of the Motor Accident Claims Tribunal, Principal District Court, Namakkal.

2.By consent of both the parties, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant is the claimant in M.C.O.P.No.215 of 2013 on the file of the Motor Accident Claims Tribunal, Principal District Court, Namakkal. She filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of her son Viknesh, who died in the accident that took place on 07.11.2012.

4.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 to pay a sum of Rs.6,59,000/- as compensation to the appellant.

5. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

6. The learned counsel appearing for the appellant contended that the deceased was 19 years old college student and working as a part time worker and was earning a sum of Rs.10,000/- per month. The Tribunal has erroneously fixed a meagre sum of Rs.6,000/- as notional income of the deceased per month and awarded a meagre sum of Rs.6,48,000/- towards loss of dependency. The Tribunal failed to award any enhancement towards future prospects. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of the compensation.

7. Per contra, learned counsel appearing for the respondent-Transport Corporation contended that the appellant has 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.6,000/- as notional income of the deceased per month and awarded compensation under different heads, which are not meagre. In view of the same, the appellant is not entitled for any enhancement and prayed for dismissal of the appeal.

8. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent-Transport Corporation and perused the entire materials on record.

9. From the award of the Tribunal, it is seen that the appellant has contended that the deceased was a college student, aged 19 years and was working as a part time worker and earning a sum of Rs.10,000/- per month. In the absence of any material to prove the income of the deceased, the Tribunal fixed a sum of Rs.6,000/- as monthly income of the deceased and the same is meagre. The accident is of the year 2012. A sum of Rs.8,000/- is fixed as monthly income of the deceased. Considering Ex.P4 / postmortem certificate and Ex.P5/ Death Certificate, the Tribunal has fixed the age of the deceased as 19 years at the time of accident. The Tribunal has not awarded any enhancement towards future prospects. The appellant is 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 '18', the amount granted towards loss of dependency is modified to Rs.12,09,600/- $\{ [Rs.8,000/- + Rs.3,200/- (40\% \text{ of } Rs.8,000/-)] \times 12 \times 18 \times \frac{1}{2} \}$. The Tribunal has granted meagre amount towards loss of love and

affection, funeral expenses and loss of estate and the same is hereby enhanced to Rs.40,000/-, Rs.15,000/- and Rs.15,000/- respectively. 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	6,48,000/-	12,09,600/-	enhanced
2.	Loss of love and affection	5,000/-	40,000/-	enhanced
3.	Funeral expenses	5,000/-	15,000/-	enhanced
4.	Loss of estate	1,000/-	15,000/-	enhanced
	Total	6,59,000/-	12,79,600/-	Enhanced by Rs.6,20,600/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,59,000/- is hereby enhanced to Rs.12,79,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. It is made clear that the appellant/claimant is not entitled for any interest for the delay period on the amount of Rs.6,20,600/-, enhanced by this Court, as per the order of this Court dated 07.01.2020 made in C.M.P. No. 118 of 2020 in C.M.A. (SR). No. 768 of 2020. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
Principal District Judge,
Namakkal.

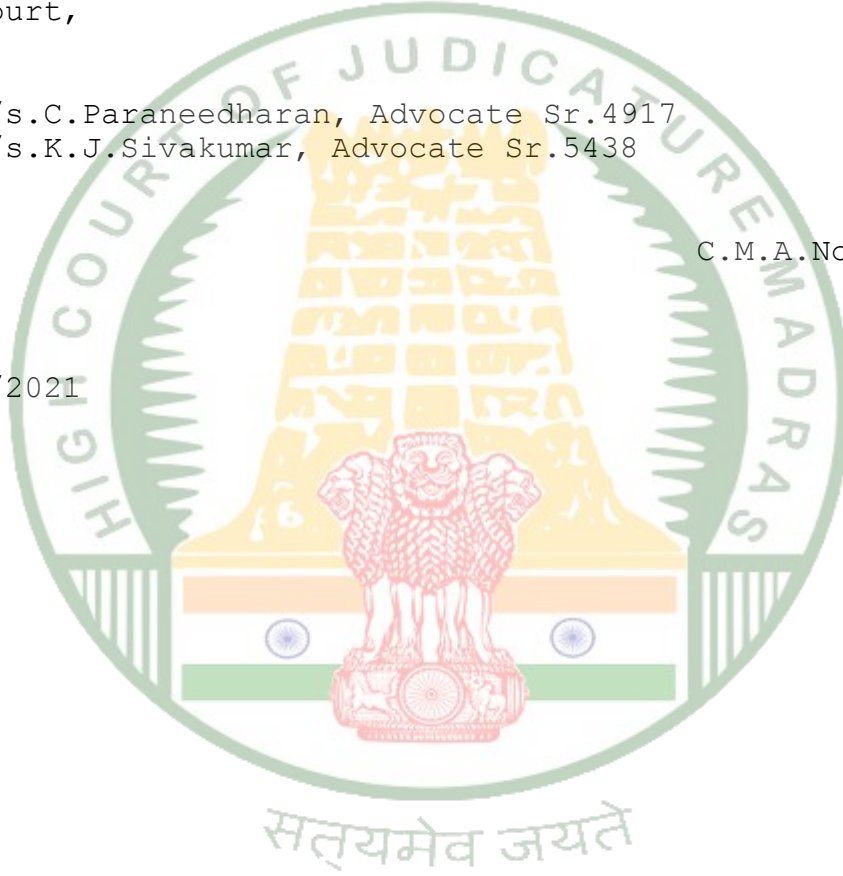
Copy to

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

+2cc to M/s.C.Paraneedharan, Advocate Sr.4917
+1cc to M/s.K.J.Sivakumar, Advocate Sr.5438

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