

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.3509 of 2008

1. L.Bhanumathy
2. L.Priya
3. M.Davamani

... Appellants/Petitioners

Vs.

1. M/s.Ramani Service & Co.
No.3/340, Rajaji Road,
Salem-7.
2. United India Insurance Co. Ltd.,
Motor III Party Claim Office,
No.38, Anna Salai,
Chennai-600 002.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and Decree dated 12.09.2006 made in MCOP. No.604 of 2001, on the file of the learned Additional Subordinate Judge, Motor Accidents Claims Tribunal, Chengalpattu.

For Appellants : Mr.J.Mahalingam

For Respondents: Mr.D.Bhaskaran - For R2

Notice served - No appearance - R1

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants/claimants against the judgment and Decree dated 12.09.2006 made in MCOP. No.604 of 2001, on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Chengalpattu.

2.Brief facts which are necessary for disposal of this appeal are as follows:-

On 30.12.1991 at about 05.00 P.M., while one Lingam was standing near the bus at Meenambakkam, the bus bearing

registration No.TAL 9295, driven by the driver of the bus, in a rash and negligent manner, dashed against the petitioner, due to which, One Lingam was sustained grievous injuries and taken treatment in various hospitals and later on he died on 07.06.2001. Alleging that the accident was due to negligent driving of the driver of the bus, the appellants/claimants have filed a claim Petition before the Motor Accidents Claims Tribunal, Chengalpattu under Section 166 of the Motor Vehicle Act, claiming compensation of Rs.15,00,000/- against the owner of the bus and its insurer and the same was taken on file in MCOP. No.604 of 2001.

3. Before the Tribunal, during trial, in order to prove the case of the claimants, they have examined three witnesses viz., P.W.1 to P.W.3 and marked 10 documents viz., Exs.P1 to P10. On the side of the respondents, no one was examined and no document was marked. The Tribunal, after hearing the arguments on either side and after considering the oral and documentary evidences, has come to the conclusion that the accident occurred only due to negligent driving of the first respondent. As the first respondent's bus was insured with the second respondent insurance company, the Tribunal held that the second respondent is liable to compensate the claimants. After considering the oral and documentary evidence, the Tribunal has awarded a sum of Rs.67,000/- as compensation to the claimants with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

4. Aggrieved by the said award dated 12.09.2006, the appellants/claimants have filed this appeal before this Court for enhancement of the compensation.

5.The learned counsel appearing for the appellants/claimants would submit that the Tribunal awarded a sum of Rs.27,000/- to the wife and Rs.20,000/- each to the children is very meager. The award amount passed towards funeral expenses is also too low. The appellants had submitted the discharge summaries of the deceased, which were marked as Exs.P2, P3, P4, P5 and P8. But the Tribunal has erred in considering these exhibits, failed to award any compensation under the head of medical expenses. The Tribunal has failed to award any compensation under the head of loss of income, pain and suffering and attender charges. The deceased is a sole breadwinner of the family. Hence, the learned counsel prays to enhance the amount awarded by the Tribunal.

6. The learned counsel for the second respondent Insurance Company would submit that the deceased was not due to the injuries sustained by him and that the accident was occurred in the year 1991. But the claimant/deceased died on 07.06.2001. Therefore, the legal heirs are not entitled to get any

compensation and the deceased was only sustained simple injuries. Therefore the award amount passed by the Tribunal is unfair. Hence, the learned counsel prayed to dismiss the order of the Tribunal.

7. Heard the learned counsel for the appellants/claimants as well as the learned counsel for the respondent Insurance Company and also perused the materials available on record.

8. From the materials on record, it is seen that the bus was driven by driver, in a rash and negligent manner and dashed against the deceased. Due to which, he suffered injuries and later on he died.

9. As far as the quantum of compensation is concerned, the notional income fixed by the Tribunal is meager and the same has to be enhanced from Rs.1000/- to Rs.2000/-. The multiplier to be applied in this case is '15'. For the said multiplier and income, the compensation worked out is Rs.1,12,000/- towards loss of income. From the discharge summaries, it is seen that the deceased has taken treatment in various hospital and due to which, he has voluntarily retired from service. Therefore, this Court is inclined to grant a sum of Rs.10,000/- towards pain and sufferings and Rs.5,000/- towards attender's charges and Rs.5,000/- towards extra nourishment.

10. The amount of compensation of Rs.67,000/- is enhanced to Rs.1,32,000/- under the following heads :-

Sl.No.	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of Income	60,000/-	1,12,000/-
2	Loss of Consortium	5,000/-	---
3	Pain and sufferings	---	10,000/-
4	Attender Charges	---	5,000/-
5	Funeral Expenses	2,000/-	---
6	Transportation	---	---
7	Extra Nourishment	---	5,000/-
	Total	67,000/-	1,32,000/-

11.With the above modification, the appeal is allowed in part. and the compensation awarded by the Tribunal at Rs.67,000/- is hereby enhanced to Rs.1,32,000/-, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent is directed to deposit the enhanced amount with interest, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw their share of the award amount with interest and costs, as per the ratio of apportionment fixed by the Tribunal, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rli

To

1.The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Chengalpattu.

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

+lcc to Mr.J.Mahalingam, Advocate Sr.429

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srg 24/11/2020

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