

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3483 of 2010

1.Amutha

2.Manjula

3.Minor. Rekha .. Appellants/Claimants
(Minor rep. by 1st appellant Amutha)

Vs.

1.Managing Director
Tourism Development Pondicherry Transport
and Corporation Ltd.,
Pondicherry.

2.New India Assurance Corporation Ltd.,
Pondicherry

Singaravelu (Deceased) .. Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 29.03.2007 made in MCOP.No.64 of 2001 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Villupuram.

For Appellants : Mr.C.Pushparaj

For R1 : Mr.B.Nambiselvan
Government Pleader (Pondicherry)

For R2 : Mr.J.Chandran

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J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 29.03.2007 made in MCOP.No.64 of 2001 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Villupuram.

2.The appellants are claimants in MCOP.No.64 of 2001 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Villupuram. They filed the said claim petition claiming a sum of Rs.4,00,000/- as compensation for

the death of one Devi, who died in the accident that took place on 24.01.2001. Pending claim petition, the 3rd respondent viz., Singaravelu died.

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 1st respondent and directed both the 1st respondent as well as the 2nd respondent/Insurance Company being insurer of the said bus, to jointly and severally, pay a sum of Rs.75,000/- as compensation to the appellants.

4.Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellants contended that the Tribunal erred in awarding only a meagre sum of Rs.75,000/- as compensation for the death of the minor girl against the claim of Rs.4,00,000/-. The Tribunal failed to see that the deceased, who was studying 8th standard was hale and healthy. If the deceased is alive, she would have got decent job in future and supported the appellants. The Tribunal ought to have considered the age of the deceased as 14 and adopted multiplier 15 in accordance with the Schedule II of the Motor Vehicles Act. The Tribunal ought to have fixed monthly income at Rs.3,000/- and awarded compensation for loss of dependency. The Tribunal has not awarded any amounts towards funeral expenses, transportation and pain & sufferings. The compensation awarded by the Tribunal is meagre and prayed for enhancement of the compensation.

6.The learned Government Pleader appearing for the 1st respondent made his submissions in support of the award passed by the Tribunal.

7.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the Tribunal considering the judgment of the Hon'ble Apex Court reported in 2004 (1) MLJ 687 (Kokila and another vs A.C.Rayen and another), awarded a sum of Rs.75,000/- towards pecuniary loss for the death of minor aged above ten years and the same is proper. The compensation awarded by the Tribunal is not meagre and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellants, learned Government Pleader (Pondicherry) appearing for the 1st respondent and learned counsel appearing for the 2nd respondent/Insurance Company and perused the materials available on record.

9.From the materials available on record, it is seen that the appellants have filed claim petition, claiming compensation for the death of the minor girl aged 13 years.

The Tribunal awarded a lumpsum compensation of Rs.75,000/- as per the judgment of the Hon'ble Apex Court referred to above. The accident is of the year 2001. As per II Schedule, the notional income of the deceased minor is fixed at Rs.15,000/- per annum and applying the multiplier of '15', a sum of Rs.2,25,000/- (Rs.15,000/- X 15) is awarded towards pecuniary loss. The Tribunal has not awarded any amounts towards loss of love & affection, funeral expenses and loss of estate. Hence, the sum of Rs.40,000/-, Rs.15,000/- and Rs.15,000/- are awarded towards loss of love & affection, funeral expenses and loss of estate respectively. In view of the above, the lumpsum compensation of Rs.75,000/- awarded by the Tribunal is liable to be set aside and hence the same is hereby set aside.

10.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. 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.	Lumpsum compensation	75,000/-	-	Set aside
2.	Pecuniary loss	-	2,25,000/-	Granted
3.	Loss of love and affection	-	40,000/-	Granted
4.	Funeral expenses	-	15,000/-	granted
5.	Loss of estate	-	15,000/-	Granted
	Total	Rs.75,000/-	Rs.2,95,000/-	Enhanced by Rs.2,20,000/-

11.In the result, the appeal is allowed and the compensation granted by the Tribunal at Rs.75,000/- is enhanced to Rs.2,95,000/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay necessary Court fee, if any, on the enhanced compensation. It is made clear that the appellants are not entitled to any interest for the delay period on the amount of Rs.2,20,000/- enhanced by this Court as per the order of this Court dated 26.11.2010 in M.P.No.1 of 2009 in C.M.A.Sr.No.106325 of 2009. The respondents 1 & 2 are directed to jointly and severally 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 twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants 1 & 2 are permitted to withdraw their respective share of the award amount as per the apportionment made by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. The share of the minor 3rd appellant is directed to be deposited in any one of the Nationalised Banks till the minor attains majority. The 1st appellant being the mother of the 3rd appellant is permitted to withdraw the accrued interest once in three months for the welfare of the minor. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mtl

To

1.Motor Accident Claims Tribunal),
The Chief Judge, Small Causes Court
Chennai.

Copy To

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

+lcc to Mr. C.Pushparaj, Advocate, S.R.No. 23552
+lcc to Mr. J.Chandran, Advocate, S.R.No. 23753
+lcc to the Government Pleader, S.R.No. 23849

C.M.A.No.3483 of 2010

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GN(04/02/2021)

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