

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1447 of 2013

1.Muniyammal @ Indumathi

2.A.Rajendran

3.R.Sumathi .. Appellants/petitioners

Vs.

The Tamil Nadu State
Transport Corporation
represented by its Managing Director
(Villupuram Division III) Ltd.
Kancheepuram 631 501

.. Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.07.2008 made in M.C.O.P.No.3050 of 2006 on the file of Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.K.J.Sivakumar

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 29.07.2008 made in M.C.O.P.No.3050 of 2006 on the file of Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

2.The appellants are claimants in M.C.O.P.No.3050 of 2006 on the file of Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai. They filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Suman, who died in the accident that took place on 08.07.2006.

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 and directed the respondent to pay a sum of Rs.3,20,000/- as compensation to the appellants.

4. Not being satisfied with the amounts 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 deceased was aged 21 years at the time of accident and was earning a sum of Rs.250/- per day by working as a coolie. The Tribunal without considering the same, fixed only a meagre sum of Rs.3,500/- per month as notional income of the deceased and has not granted any enhancement towards future prospects. The multiplier '10' applied by the Tribunal based on the age of mother of the deceased is not correct. The Tribunal ought to have applied multiplier '18' based on the age of the deceased. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the appellants have not produced any document to prove that the deceased was earning a sum of Rs.250/- per day. In the absence of any material evidence to prove the avocation and income of the deceased, the Tribunal fixed a sum of Rs.3,500/- per month as notional income of the deceased, which is not meagre. The Tribunal after considering all the materials available on record, awarded just compensation. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8. It is the contention of the appellants that the deceased was aged 21 years at the time of accident and was earning a sum of Rs.250/- per day by working as a coolie. The appellants failed to substantiate their contention. In the absence of any material evidence to prove the avocation and income of the deceased, the Tribunal fixed a sum of Rs.3,500/- per month as notional income of the deceased. The accident is of the year 2006 and the notional income fixed by the Tribunal is meagre. Hence, a sum of Rs.6,000/- per month is fixed as notional income of the deceased. The deceased was aged 21 years at the time of accident. The Tribunal has not granted any enhancement towards future prospects. The appellants are entitled to 40% enhancement towards future prospects. The deceased was bachelor at the time of accident and the Tribunal erred in deducting $\frac{1}{3}$ rd instead of

1/2 towards personal expenses. The Tribunal applied multiplier '10' based on the age of mother of the deceased. As per the judgment of the Hon'ble Apex Court, the multiplier has to be applied based on the age of the deceased. The deceased was aged 21 years at the time of accident and the multiplier applicable is '18'. Thus, the compensation awarded by the Tribunal towards loss of dependency is enhanced to Rs.9,07,200/- (Rs.6,000/- + 2400 [Rs.6,000/- X 40%] X 12 X 18 X 1/2). The Tribunal awarded a sum of Rs.5,000/- altogether towards transportation & funeral expenses, which is meagre and hence, a sum of Rs.15,000/- is awarded towards funeral expenses. The sum of Rs.15,000/- each to the appellants 1 and 2 and Rs.5,000/- to 3rd appellant awarded by the Tribunal towards loss of love & affection are meagre and hence, the same are hereby enhanced to Rs.40,000/- to the 1st appellant, mother of the deceased and Rs.20,000/- to the 3rd appellant, who is sister of the deceased. The Tribunal has not awarded any compensation towards loss of estate and hence, a sum of Rs.15,000/- is awarded towards loss of estate.

9.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 or reduced
1.	Loss of dependency	2,80,000	9,07,200	Enhanced
2.	Transportation and funeral expenses	5,000	5,000 15,000	Enhanced
3.	Loss of love and affection to the appellants 1&2 and 3 rd appellant	30,000 5,000	1 st appellant 40,000 3 rd appellant 20,000	Enhanced

4.	Loss of estate	-	15,000	Granted
	Total	3,20,000	10,02,200	Enhanced by Rs.6,82,200/-

10. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.3,20,000/- is hereby enhanced to Rs.10,02,200/- together 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.6,82,200/- enhanced by this Court as per the order of this Court dated 12.04.2013 in M.P.No.1 of 2012 in C.M.A.SR.No.93707 of 2012. 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 twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their respective share of the award amount as per the apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

-s/d-
Assistant Registrar

true Copy

Sub-Assistant Registrar

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To

1.The Chief Judge

The Motor Accident Claims Tribunal
Small Causes Court, Chennai.

2.The Section Officer

V.R.Section
High Court, Chennai.

+2 ccs to Mr.V.Mohan Choundary Advocate sr24552

C.M.A.No.1447 of 2013

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