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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1650 of 2013

1.S.Pushpa

2.S.Vijayakumar (minor)

3.S.Vasuki (minor)

Minor petitioners 2 and 3 are
rep. by their mother and next
friend first petitioner herein

4.Muniyan alias Muniyandi

... Appellants

..Vs..

Metropolitan Transport Corporation

(Chennai Division-I)

Limited, rep. by its Managing Director

Pallavan House, Anna Salai

Chennai-2.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the amount awarded in M.C.O.P No.3147 of 2007 dated 05.04.2010 on the file of the Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai, as prayed for with interest and cost.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.S.Sivakumar

JUDGMENT

(This Appeal has been taken up for hearing through Video Conferencing)

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 05.04.2010 passed by the Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai, in M.C.O.P No.3147 of 2007.



2. The Appellants unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award have preferred this appeal seeking enhancement.

3. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

Heads	Award Amount (Rs.)
Pecuniary loss of income	8,10,000/- (6000 -1/4 = 4500 x 12 x 15)
Loss of Consortium	10,000/-
Loss of Love and affection	10,000/-
Funeral expenses and transport to hospital	5,850/-
Damage to Bullock Cart	14,150/-
Total	8,50,000/-

4. As seen from the impugned award, the Tribunal has not awarded any compensation towards loss of future prospects which the Appellants/claimants are legally entitled to as per the Constitution Bench Judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi & others reported in 2017 (2) TN MAC 609 (SC). Accordingly, this Court grants 40% towards loss of future prospects to the Appellants.

5. The Tribunal has rightly applied 15 multiplier, since the deceased was aged 40 years at the time of accident as per Ex.P6, the postmortem certificate. Since the Appellants are wife, two minor children and the father of the deceased, 1/4th will have to be deducted towards the personal expenses of the deceased. The Tribunal has assessed the notional monthly income of the deceased at Rs.6000/-. After giving due consideration to the year of the accident and the avocation of the deceased as a Bullock Cart owner, the assessment is a correct assessment.

6. In addition to the pecuniary loss sustained by the Appellants, the Tribunal has granted a compensation of Rs.10,000/- towards loss of consortium, Rs.10,000/- towards love and affection, Rs.5,850/- towards funeral expenses and transport charges and Rs.14,150/- towards damage to Bullock Cart. The



damage suffered to the Bullock Cart of the deceased is supported by Ex.P8 which is a receipt. It shows that the Appellants have incurred a sum of Rs.14,750/- as repair charges to repair the Bullock Cart which was damaged as a result of the accident. However, the compensation awarded by the Tribunal towards loss of consortium and funeral expenses is low. As per the settled practice, the compensation towards loss of consortium is enhanced to Rs.40,000/- from Rs.10,000/- and towards funeral expenses from Rs.5,850/- to Rs.15,000/-. However, as per the decision of the Hon'ble Supreme Court in Pranay Sethi judgment referred to supra, the Appellants are not entitled to any compensation towards loss of love and affection and they are entitled to adequate compensation under the head "loss of consortium".

7. The Tribunal has erroneously failed to award any compensation towards loss of estate which they are legally entitled to as per the settled practice. Accordingly, a sum of Rs.15,000/- is awarded as compensation to the Appellants towards loss of estate.

8. For the forgoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.8,50,000/- to Rs.12,18,150/- as detailed hereunder.

Heads	Amount awarded by the Tribunal	Award Amount (Rs.)
Pecuniary loss of income	8,10,000	11,34,000/- (6000 + 40/100 8400x12x15x3/4)
Loss of Consortium	10,000/-	40,000/-
Loss of Love & affection	10,000/-	Nil
Funeral Expenses	5,850	15,000/-
Loss of Estate	Nil	15,000 /-
Damage to Bullock Cart	14,150/-	14,150/-
Total	8,50,000/-	12,18,150/-

Conclusion:

9. In the result, this appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The Respondent Transport Corporation is directed to deposit the modified award amount i.e, Rs.12,18,150/- along with interest and costs, after deducting the amount already



deposited, if any, to the credit of MCOP.No.3147 of 2007 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount as per the ratio apportioned by the Tribunal to the bank accounts of the Appellants 1 and 4 along with accrued interest through RTGS within a period of two weeks thereafter. Insofar as the minor Appellants 2 & 3 are concerned, the Tribunal is directed to deposit the share of their award amount bearing fixed deposit in any one of the Nationalised Bank till they attain majority and the first Appellant/mother of the minors is permitted to withdraw the interest accrued once in six months for the welfare of the minors. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

UMA
To

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

Copy to

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

C.M.A.No.1650 of 2013

vsn II[co]
srg 04/10/2021