

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.137 OF 2016

1.M.Vatchala
2.M.Sharathkumar
3.M.Lokeshwar

.. Appellants/Claimants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd,
Division - III, No.1, 2, Sheikpet Nadu Street,
Kanchipuram.

.. Respondent/Respondent

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 19.01.2015 made in M.C.O.P.No.193 of 2013 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee.

For Appellants : Mr.K.Varadhakamaraj

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 19.01.2015 made in M.C.O.P.No.193 of 2013 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee.

2.The appellants are claimants in M.C.O.P.No.193 of 2013 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Poonamallee. The appellants filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation for the death of one Mohan, who died in the accident that took place on 07.11.2012.

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 /Transport Corporation to pay a sum of Rs.7,32,000/- 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 deceased was working as a store keeper in Chennai Garments India Pvt Ltd and was earning a sum of Rs.9,500/- per month at the time of the accident, but the Tribunal has fixed a meagre sum of Rs.6,500/- per month as notional income of the deceased. The deceased was aged 49 years at the time of the accident. The Tribunal has not awarded any enhancement towards future prospects. 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 Tribunal, after considering all the materials available on record in proper perspective, has awarded compensation, which is not meagre and the appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal. It is the further submission of the learned counsel for the respondent that the Transport Corporation also filed an appeal in C.M.A.Sr.No.86589 of 2015 along with a petition to condone the delay and this Court, by order dated 19.11.2015 made in M.P. No.1 of 2015 condoned the delay on condition that the respondent shall deposit the entire award amount within a period of six weeks from the date of that order. However, subsequently the appeal came to be rejected, since the condition imposed to deposit the entire award amount within a stipulated time has not been complied with.

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

8. It is the contention of the appellants that the deceased was working as a store keeper in Chennai Garments India Pvt Ltd and was earning a sum of Rs.9,500/- per month at the time of accident. To prove the avocation and income of the deceased, the appellants have produced Ex.P5/salary certificate. The Tribunal rejected the salary certificate produced by the appellants stating that there is no address and seal of the company in the salary certificate and fixed notional income of the deceased at Rs.6,500/- per month. The accident is of the year 2012. The

notional income fixed by the Tribunal is meagre. A sum of Rs.7,000/- is fixed as notional income of the deceased. In Ex.P2/postmortem certificate, the age of the deceased was mentioned as 49 years at the time of accident. The Tribunal has fixed the age of the deceased as 49 years as per Ex.P2/postmortem certificate. The Tribunal has not awarded any enhancement towards future prospects. The appellants are entitled to 25% enhancement towards future prospects. Since there are three dependents depending on the deceased, the Tribunal has rightly deducted 1/3rd towards the personal expenses of the deceased and adopted multiplier '13'. Thus, the amount awarded by the Tribunal towards loss of income is enhanced to Rs.9,10,000/- [(Rs.7,000/- + 1,750 (Rs.7,000/- x 25%) 12 x 13 x 2/3)]. The amounts awarded by the Tribunal towards loss of consortium and funeral expenses are meagre and hence the same are hereby enhanced to Rs.40,000/- and Rs.15,000/- respectively. The amounts awarded by the Tribunal under other heads are just and reasonable and hence the same are hereby confirmed. 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.	Loss of income	6,76,000	9,10,000	Enhanced
2.	Funeral expenses	10,000	15,000	Enhanced
3.	Transportation charges	5,000	5,000	Confirmed
4.	Loss of love and affection	20,000	20,000	Confirmed
5.	Loss of consortium to the 1 st appellant	20,000	40,000	Enhanced
6.	Damages to clothes	1,000	1,000	Confirmed
	Total	Rs.7,32,000/-	Rs.9,91,000/-	Enhanced by Rs.2,59,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,32,000/- is hereby enhanced to Rs.9,91,000/- 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. The respondent/Transport Corporation is directed to deposit the enhanced 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 shares of the enhanced award amount on the basis of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The II Additional District Judge,
Motor Accidents Claims Tribunal,
Poonamallee.
2. The Section Officer,
VR Section, High Court,
Madras.

+lcc to Mr.K.J.Sivakumar, Advocate, S.R.No.11000

+lcc to Mr.K.Varadhakamaraj, Advocate, S.R.No.10093

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C.M.A.No.137 of 2016

SV(CO)

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