

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.NO.138 OF 2016

- 1.Mrs.Kanniammal
- 2.Mr.D.Ganesan(Died)
- 3.Mr.D.Sangeetha

The word Died and Minor in respect of the petitioners 2 and 3 respectively were amended as per the memo dated 10.01.2012 and as per the order passed in M.P.No.68/2015 respectively.

.. Appellants/Petitioners

Vs.

Metropolitan Transport Corporation Limited,
rep.by its Managing Director,
Pallavan Salai, Chennai - 2.

.. Respondent/Respondent

Prayer:

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.2606/2008 on the file of the Motor Accident Claims Tribunal, I Special Judge, Court of Small Causes at Chennai dated 28th day of August 2015.

For Appellant : Mr.T.G.Balachandran

For Respondent : Mr.S.Sivakumar

WEB COPY
JUDGMENT

The civil miscellaneous appeal is filed against the judgment and decree dated 28.08.2015 passed in M.C.O.P.No.2606 of 2008.

2. The claimants are the appellants, filed the appeal, seeking enhancement of compensation.

3. The accident occurred on 21.05.2008 at about 16.00 hrs at

G.S.T. Road, Urapakkam and Karanai Puducherry Junction, Chennai. On account of the accident, the young girl namely G.Chitra, aged about 20 years died on account of Fatal Head injury and Multiple Injury. The deceased Chitra died immediately after the accident on the spot. The parents of the deceased, filed a claim petition seeking a compensation of Rs.12,57,500/-. During the pendency of the claim petition, the father of the deceased Mr.D.Ganesan also died. Thus, the mother and the sister of the deceased continued the claim petition.

4. The Tribunal, considered the documents as well as the evidences produced by the respective parties. The factum regarding the accident was established before the Tribunal and the Tribunal in this regard, arrived a conclusion that the accident was occurred and the deceased died without any fault on heart side. In other words, the accident occurred due to the rash and negligent driving of the driver of the bus bearing Registration No.TN-01-N-4105, which is a Transport Corporation Bus. Accordingly, the Tribunal fixed the quantum of compensation.

5. The learned counsel appearing on behalf of the appellants mainly contended that the loss of dependency assessed by the Tribunal is improper and the deceased being a sales girl in a fancy store and the future prospects has not been added for the purpose of assessing the quantum of compensation. Accordingly, the total compensation of Rs.5,57,000/- is not a fair compensation.

6. The learned counsel appearing on behalf of the respondent / Transport corporation though disputed the ground, agreed that the future prospects has not been taken into consideration by the Tribunal.

7. This Court is of the considered opinion that the deceased being a young working girl, the future prospects ought to have been added for the purpose of calculating the compensation and the Tribunal has failed to add the future prospects and under these circumstances, this Court is inclined to enhance the compensation as under:

- | | | | |
|----|--------------------------------|---|------------|
| a) | Loss of Income
(2800x12x18) | : | 6,04,800/- |
| b) | Loss of Estate | : | 15,000/- |
| c) | Funeral Expenses | : | 15,000/- |
| d) | Loss of Love & | | |

Affection(40000x2) : 80,000/-
e) Transport to Hospital: 20,000/-
Total : 7,34,800/-

8. The total amount of compensation payable to the appellant/claimants is Rs.7,34,800/-(Rupees Seven Lakhs Thirty Four Thousand and Eight Hundred only)

9. The respondent/Transport Corporation is directed to deposit the enhanced compensation along with the interest at the rate of 7.5% per annum within a period of (6) six weeks from the date of receipt of a copy of this judgment and on such deposit, 1st claimant is permitted to withdraw the entire amount by filing an appropriate application before the Tribunal and the payments are to be made through RTGS. The appellants/claimants are directed to pay Court fee for the enhanced compensation.

10. Accordingly, the judgment and decree dated 28.08.2015 passed in M.C.O.P.No.2606/2008 is set aside and consequently, C.M.A.No.138 of 2016 stands allowed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Kak

To

1. The I Special Judge, Court of Small Causes,
(Motor Accidents Claims Tribunal),
Chennai.

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

+1cc to Mr.T.G.Balachandran, Advocate, S.R.No.23096

C.M.A.No.138 of 2016

LN(CO)
CS/09/02/2021