

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2654 of 2015

1.Ramaniah
2.Akkamma

.. Appellants/Claimants

Vs.

1.M.Vedi

2.Metropolitan Transport Corporation,
Pallavan House, Head Office MTC,
Anna Salai, Chennai - 2.

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.03.2013 made in M.C.O.P.No.1661 of 2010 on the file of Motor Accidents Claims Tribunal, XVII Additional District and Sessions Court, Chennai.

For Appellants : Mr.P.Arularasu

For R2 : Mr.S.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 27.03.2013 made in M.C.O.P.No.1661 of 2010 on the file of Motor Accidents Claims Tribunal, XVII Additional District and Sessions Court, Chennai.

2.The appellants are claimants in M.C.O.P.No.1661 of 2010 on the file of Motor Accidents Claims Tribunal, XVII Additional District and Sessions Court, Chennai. The appellants filed the said claim petition claiming a sum of Rs.12,00,000/- as compensation for the death of their son viz., Mahendira Nath, who died in the accident that took place on 17.10.2009.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to

rash and negligent driving by the 1st respondent/driver of the bus belonging to the 2nd respondent/Transport Corporation and directed the 2nd respondent/Transport Corporation to pay a sum of Rs.4,61,200/- 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/claimants contended that the deceased was aged 22 years at the time of accident, he was earning a sum of Rs.8,500/- per month by working in Cell Phone Service Centre, Chennai and Ex.P11/salary certificate was marked to prove his income. The Tribunal without considering the same, has fixed only a sum of Rs.4,500/- per month as notional income of the deceased. The Tribunal while awarding compensation towards loss of dependency has fixed multiplier '13' by considering the age of the father and mother of the deceased. The Tribunal ought to have applied multiplier '18' by considering the age of the deceased. The Tribunal deducted 50% towards personal expenses, which is not proper. 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 2nd respondent/Transport Corporation contended that the accident is of the year 2009 and the monthly income fixed by the Tribunal is not meagre. The deceased was a bachelor at the time of the accident and hence, 50% deducted by the Tribunal towards personal expenses is proper. The Tribunal after considering the materials available on record, has 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 2nd respondent/Transport Corporation and perused all the materials available on record.

8. From the materials available on record, it is seen that the appellants have contended that the deceased was earning a sum of Rs.8,500/- per month by working in Cell Phone Service Centre, Chennai. They have marked Ex.P10/course completion certificate issued by Mr. Service Mobile Communication Private India Limited and Ex.P11/ receipt for the payment of fees issued by Mr. Service Institute of Cellphone Solution. The Tribunal considering the age of the deceased as well as Ex.P10 & Ex.P11, fixed a sum of Rs.4,500/- per month as notional income of the deceased. The accident is of the year 2009 and the notional

income fixed by the Tribunal is meagre. Hence, a sum of Rs.6,500/- per month is fixed as notional income of the deceased. The Tribunal has granted 20% enhancement towards future prospects. As per the judgment of the Hon'ble Apex Court reported in 2017 (2) TNMAC 609 (SC) (National Insurance Company vs. Pranay Sethi), the appellants are entitled to 40% enhancement towards future prospects. The deceased was aged 23 years at the time of accident as per Ex.P7/driving license. The Tribunal has applied multiplier '13' by considering the age of the mother and father of the deceased and the same is not correct. As per the judgment of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC (Sarla Verma vs. Delhi Transport Corporation), the age of the deceased should be taken into consideration for applying multiplier. Therefore, the correct multiplier is '18'. The deceased was a bachelor at the time of accident and therefore, the Tribunal has deducted 50% towards personal expenses, which is proper. Thus, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.9,82,800/- (Rs.6,500/- + 2,600 [Rs.6,500/- x 40%] x 12 x 18 x 1/2). A sum of Rs.5,000/- and Rs.30,000/- awarded by the Tribunal towards funeral expenses and loss of love & affection are meagre and the same are hereby enhanced to Rs.15,000/- and Rs.40,000/- respectively. The Tribunal has not awarded any amount towards loss of estate and hence, a sum of Rs.15,000/- is awarded towards loss of estate. A sum of Rs.5,000/- awarded by the Tribunal towards transportation is just and reasonable and hence, the same is 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 or reduced
1.	Loss of dependency	4,21,200	9,82,800	Enhanced
2.	Funeral expenses	5,000	15,000	Enhanced
3.	Loss of love and affection	30,000	40,000	Enhanced
4.	Transportati on	5,000	5,000	Confirmed
5.	Loss of estate	-	15,000	Granted

	Total	Rs.4,61,200/-	Rs.10,57,800/-	Enhanced by Rs.5,96,600/-
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9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,61,200/- is hereby enhanced to Rs.10,57,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd 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/claimants are permitted to withdraw their respective share of the award amount on the basis of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

XVII Additional District and Sessions Judge
The Motor Accident Claims Tribunal
Chennai.

Copy To

The Section Officer
V.R.Section
High Court, Chennai.

+1cc to Mr.P.Arularasu, Advocate, S.R.No.1619
+1cc to Mr.S.Sivakumar, Advocate, S.R.No. 2418

C.M.A.No.2654 of 2015

NR(CO)
GN(11/09/2020)