

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.02.2020

CORAM:

THE HONOURABLE Mrs Justice V.BHAVANI SUBBAROYAN

C.M.A.No.3142 of 2012

M.Balakrishnan (died)

1.B.Anna Vayal
2.B.Ananda Sekar
3.Muralimaran ...Appellants/Petitioners

Vs.

1.Andhra Pradesh State Road Transport
Corporation rep. by its Vice Chairman &
Managing Director, Mushirabad, Hyderabad.
2.T.Munikrishna
(R2 set ex-parte in lower Court) ...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree of the Motor Accident Claims Tribunal (Chief Judge, Small Causes Court), Chennai in M.C.O.P.No.2817 of 2004 dated 13.03.2008.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent-1 : Ms.G.V.Shoba

JUDGMENT

Being dissatisfied with the award, the present appeal has been filed by the appellants/claimants for enhancement of compensation awarded in M.C.O.P.No.2817 of 2004 dated 13.03.2008 by the learned Chief Judge (MACT), Small Causes Court, Chennai.

2.The germane facts which leads to the filing of the present appeal are as follows:

a)On 03.04.2003 at 8.45 a.m., when the deceased Sridharan was proceeding to his office from his house in a motor cycle bearing Registration No.TN-05-F-6681, a bus bearing Reg. No.AP-11-Z-409 belonging to the first respondent Corporation

proceeding towards Koyambedu from Irrattai Eri, driven by its driver in a rash and negligent manner dashed against the motor cycle, due to which, the said Sridharan succumbed to the injuries on the spot.

b)The Tribunal, after analysing the oral and documentary evidence, has held that the accident had occurred only due to the rash and negligent driving of the driver of the first respondent Corporation, and further held that the respondents 1 and 2 are duly liable to pay the compensation to the claimants.

c)The learned Chief Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai had passed the following award on 13.03.2008:-

Heads	Amount awarded
Loss of Dependency	Rs.2,56,000/- (32000x8)
Transportation & Funeral Expenses	Rs.4000/-
Loss of love and affection	Rs.20,000/-(10,000+5,000+5,000)
Total	Rs.2,80,000/-

Thus, directing the first respondent herein to pay the appellants a sum of Rs.2,80,000/- together with interest at 7.5% from the date of claim till the date of realization as compensation.

3.Aggrieved by the quantum of compensation awarded by the Tribunal, the present appeal has been filed by the appellants seeking enhancement of compensation.

4.Heard Mr.K.Varadha Kamaraj, learned counsel for the appellants and Ms.G.V.Shoba, learned counsel appearing on behalf of the first respondent/Transport Corporation.

5.According to the learned counsel for the appellants, the Tribunal had erred in fixing the monthly income of the deceased at Rs.4,000/- as he had completed Under Graduation and earning a sum of Rs.10,000/- per month. He submitted that the deceased was the breadwinner of the family and due to his sudden demise, it caused irreparable loss to the family. He further contended that the Tribunal had granted only a meagre amount towards transportation & funeral expenses and also under loss of love and affection to the claimants and pleaded that the same needs to be enhanced.

6.Per contra, the learned counsel appearing on behalf of the first respondent/Corporation submits that the compensation awarded by the Tribunal is just and reasonable and warrants no interference.

7.This Court after having considered the materials available on record, having examined the impugned award and having heard the submissions of the respective Counsels, is of the view that since the deceased is a B.A. Graduate, the monthly income can be fixed at Rs.6250/- and after deducting ½ towards his personal expenses, the monthly income arrives at Rs.3125/-, which amounts to Rs.37,500/- per annum. This Court is of the view that the multiplier adopted by the Tribunal is not correct and as per the well settled proposition, considering the age of the deceased, 17 multiplier is taken for arriving the loss of dependency, which comes Rs.6,37,500/- (37,500x17). It is brought to the notice of this Court that the amount awarded towards loss of love and affection is meagre and hence, the same are enhanced to Rs.20,000/- from Rs.10,000/- for the mother and Rs.10,000/- from Rs.5000/- each for the brothers. Thus, the details of the modified award amount is as follows:

Heads	Amount awarded by the Tribunal	Amount Awarded by this Court	Award confirmed or enhanced or granted
Loss of Dependency	Rs.2,56,000/-	Rs.6,37,500/- (3125x12x17)	enhanced
Transportation & Funeral Expenses	Rs.4,000/-	Rs.4,000/-	confirmed
Loss of Love & Affection	Rs.20,000/- (Rs.10,000/- +5000+5000)	Rs.40,000/- (Rs.20,000+10,000+10,000)	enhanced
Total	Rs.2,80,000/-	Rs.6,81,500/-	Enhanced by Rs.4,01,500/-

8.In the result, the Civil Miscellaneous Appeal is partly allowed and the award dated 13.03.2008, passed by the learned Chief Judge (MACT), Small Causes Court, Chennai in M.C.O.P.No.2817 of 2004, is hereby enhanced from Rs.2,80,000/-

to Rs.6,81,500/-. The first respondent herein is directed to deposit the enhanced amount to the credit of M.C.O.P.No.2817 of 2004, on the file of the Motor Accident Claims Tribunal (Chief Court) Small Causes Court, Chennai together with interest 7.5% per annum from the date of claim till the date of deposit within a period of three weeks from the date of receipt of this order. On such deposit being made, the appellants are permitted to withdraw their proportionate share amount by filing an appropriate application. No costs.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

DP

To

1.The Motor Accident Claims Tribunal,
(Chief Court) Small Causes Court,
Chennai.

Copy To :

The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.K.Varadha Kamaraj, Advocate SR.No.11059

+1cc to Ms.G.V.Shoba, Advocate SR.No.10231

सत्यमेव जयते

C.M.A.No.3142 of 2012

RJI (CO)
GMY (05/10/2020)

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