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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2724 of 2013

1.R.Vanitha

2.M.Ravi

... Appellants

Vs.

The Managing Director
Tamil Nadu State Transport Corporation
Kanchipuram Region
Kanchipuram.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 10.01.2012 made in M.C.O.P.No.4322 of 2007 on the file of Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.F.Terry Chellaraja for Mr.V.Velu

For Respondent : Mr.K.Kathiresan

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 10.01.2012 made in M.C.O.P.No.4322 of 2007 on the file of Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

2.The appellants are claimants in M.C.O.P.No.4322 of 2007 on the file of Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai. They filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the death of their son viz., R.Yuvaraj, who died in the accident that took place on 08.09.2007.

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.2,76,700/- 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 14 years and was studying VI standard at the time of accident. The Tribunal fixed only a meagre sum of Rs.15,000/- as annual income of the deceased, applied multiplier 15 and awarded a sum of Rs.2,25,000/- towards loss of dependency. The Tribunal ought to have followed the judgment of the Hon'ble Apex Court, fixed notional income of the deceased child more than Rs.15,000/- per annum and applied multiplier 18. The Tribunal has not awarded any compensation towards loss of estate, mental agony, damage to clothes and transportation. In any event, the amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6. The learned counsel appearing for the respondent/Transport Corporation made his submissions supporting the award passed by the Tribunal 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 respondent/Transport Corporation and perused all the materials available on record.

8. From the materials available on record, it is seen that the Tribunal considering the judgment of the Hon'ble Apex Court reported in 2004 (2) TNMAC 262 (SC) (Manju Devi vs. Musafir Paswan), has fixed the notional income of the deceased at Rs.15,000/- per annum, applied multiplier '5' and awarded a sum of Rs.2,25,000/- towards loss of dependency. The appellants have claimed compensation for the death of their minor son aged 14 years. The Hon'ble Apex Court taking into consideration the passage of time from the date of II Schedule and the raise in cost of living, has fixed a sum of Rs.30,000/- per annum as the notional income of the deceased minor and applied the multiplier '15'. Considering the raise in cost of living, the notional income of the deceased is fixed at Rs.30,000/- per annum and applying the multiplier '15', a sum of Rs.4,50,000/- is awarded towards loss of dependency. The Tribunal has not awarded any compensation towards loss of estate and hence, a sum of Rs.15,000/- is awarded towards loss of estate. A sum of Rs.10,000/- awarded by the Tribunal towards loss of love & affection to the appellants is meagre. Considering the fact that



the appellants, who lost their son at his young age, the compensation awarded by the Tribunal towards loss of love & affection to the appellants is hereby enhanced to Rs.40,000/- each. A sum of Rs.2,500/- awarded by the Tribunal funeral expenses is meagre and the same is hereby enhanced to Rs.15,000/-. The compensation awarded by the Tribunal towards medical expenses is just and reasonable and hence, the same is hereby confirmed.

9.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation, more than the amount claimed by the claimants. 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	2,25,000	4,50,000	Enhanced
2.	Medical expenses	39,200	39,200	Confirmed
3.	Loss of love and affection	10,000	80,000	Enhanced
4.	Funereal expenses	2,500	15,000	Enhanced
5.	Loss of estate	-	15,000	Granted
	Total	Rs.2,76,200/-	Rs.5,99,200/-	Enhanced by Rs.3,22,500/-

10.In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.2,76,700/- is hereby enhanced to Rs.5,99,200/- 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. It is made clear that the appellants/claimants are not entitled to any interest for the delay period on the amount of Rs.3,22,500/- enhanced by this Court as per the order of this Court dated 31.07.2013 in M.P.No.1 of 2013 in C.M.A.SR.No.22861 of 2013. The



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

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

Copy to

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

+lcc to M/s.V.Velu, Advocate Sr.22930

C.M.A.No.2724 of 2013

vsn II[co]
srg 13/08/2021