

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1787 of 2016

1.Mrs.Anusya
2.Vijayalakshmi
3.Shobhana
4.Ramani Bai
S.K.Narasimhan (Died)

.. Appellants/Claimant

(Cause title accepted vide order of
the Court dated 04.06.2012 made in
M.P.No.1 of 2012 in C.M.A.Sr.No.96088/2011)

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Illam, Anna Salai,
Chennai - 2.

.. Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of
the Motor Vehicles Act, 1988, against the judgment and decree
dated 14.02.2011 made in M.C.O.P.No.1077 of 2007 on the file of
Motor Accident Claims Tribunal, Principal District Court,
Thiruvallur.

For Appellants : Mr.K.Varadhakamaraj
For Respondent : Mr.S.Sivakumar

J U D G M E N T
सत्यमेव जयते

The Civil Miscellaneous Appeal is filed for enhancement of
compensation granted by the Tribunal in the award dated
14.02.2011 made in M.C.O.P.No.1077 of 2007 on the file of Motor
Accident Claims Tribunal, Principal District Court, Thiruvallur.

2.The appellants are claimants in M.C.O.P.No.1077 of 2007 on
the file of Motor Accident Claims Tribunal, Principal District
Court, Thiruvallur. The appellants along with one Narasimhan
filed the said claim petition, claiming a sum of Rs.10,00,000/-
as compensation for the death of one Sasidaran, who died in the
accident that took place on 08.11.2007. Pending appeal
Narasimhan died.

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.6,59,000/- 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 contended that the deceased was working as a Sales Manager for S.K.Hospitality Services and was earning a sum of Rs.7,000/- per month and marked Ex.P10/Income Tax certificate, besides examining P.W.3/employer of the deceased to prove the said contention. A sum of Rs.6,000/- per month fixed by the Tribunal towards notional income of the deceased is meagre. Further, the Tribunal erred in deducting Rs.2,000/- towards personal expenses without any basis. The deceased was aged 48 years at the time of accident. The Tribunal has not awarded any amount 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 appellants claimed a sum of Rs.10,00,000/- as compensation and the Tribunal has awarded a sum of Rs.6,59,000/- as compensation to the appellants. In this appeal, the appellants have restricted their claim only to Rs.1,00,000/-. The notional income fixed by the Tribunal is not meagre. 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 respondent/Transport Corporation and perused all the materials available on record.

8.It is contention of the appellants that they have produced Ex.P7/salary certificate, Ex.P10/Income Tax certificate, Ex.P11/Income Tax letter dated 22.10.2010 and examined P.W.3 to prove the income of the deceased. From the evidence of P.W.3, it is seen that the deceased was working as a Sales Manager for S.K.Hospitality Services and was earning a sum of Rs.7,000/- per month. The appellants have failed to prove the same. The Tribunal has fixed a sum of Rs.6,000/- per month as notional income of the deceased. The accident is of the year 2007 and the

notional income of Rs.6,000/- per month fixed by the Tribunal is proper and correct. The deceased was aged 48 years at the time of accident. The Tribunal has not granted any enhancement towards future prospects. The appellants are entitled to 25% enhancement towards future prospects. The Tribunal applied multiplier 13 and deducted 1/3rd towards personal expenses. The multiplier applied by the Tribunal is proper. There are four dependents of the deceased and therefore 1/4th has to be deducted towards personal expenses. Thus, the loss of income awarded by the Tribunal is modified to Rs.8,77,500/- (Rs.6,000/- + 1500 [Rs.6,000/- X 25%] X 12 X 13 X 3/4). The Tribunal has awarded a meagre sum of Rs.5,000/-, Rs.10,000/- and Rs.10,000/- towards funeral expenses, loss of consortium and loss of estate respectively and hence the same are hereby enhanced to Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The amount granted by the Tribunal towards loss of love and affection is just and reasonable and 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 income	6,24,000	8,77,500	Enhanced
2.	Funeral expenses	5,000	15,000	Enhanced
3.	Loss of consortium	10,000	40,000	Enhanced
4.	Loss of love and affection	10,000	10,000	Confirmed
5.	Loss of estate	10,000	15,000	Enhanced
	Total	Rs.6,59,000/-	Rs.9,57,500/-	Enhanced by Rs.2,98,500/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,59,000/- is hereby enhanced to Rs.9,57,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. 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 along with proportionate interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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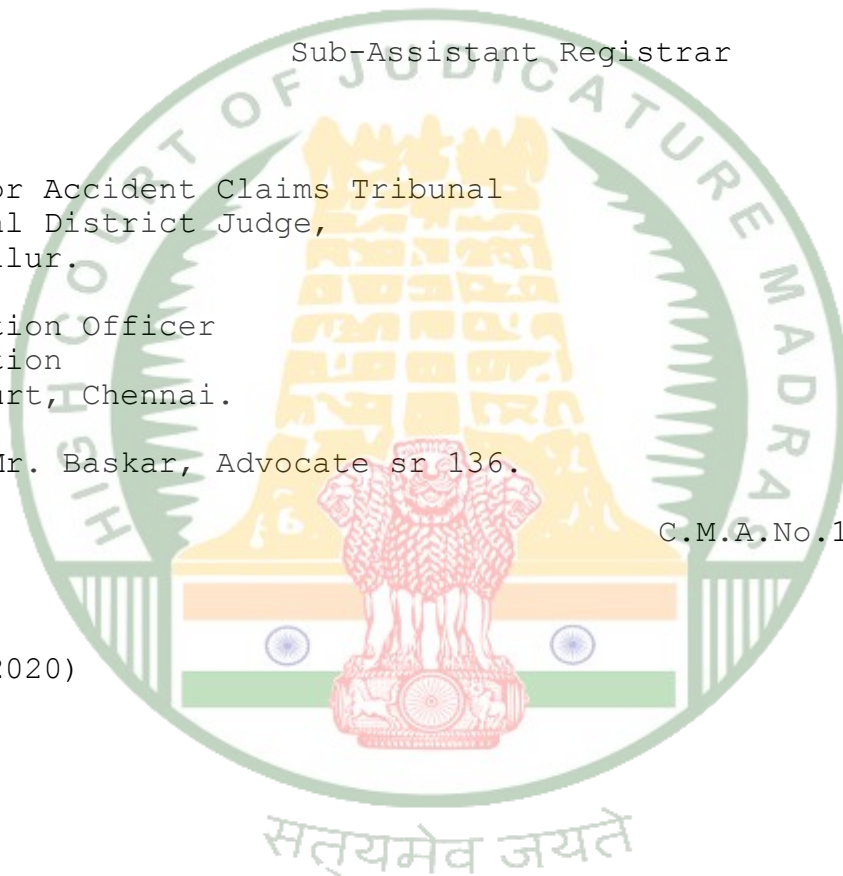
1.The Motor Accident Claims Tribunal
Principal District Judge,
Thiruvallur.

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

+1 CC to Mr. Baskar, Advocate sr 136.

C.M.A.No.1787 of 2016

VGII(CO)
SP(02/09/2020)



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