

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 2961 of 2013

1.Nalamangai
2.Manokaran @ Veerabathiran
3.Kaliappan
4.Thangamani .. Appellants/Petitioners

Vs.

The Managing Director,
State Express Transport Corporation Ltd.,
Annasalai,
Chennai 600 0020. .. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 14.03.2013, made in M.C.O.P. No. 3448 of 2009, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellants : Mr. F. Terry Chellaraja

For Respondent : Mr. K.J. Sivakumar

J U D G M E N T

This appeal has been filed for enhancement of the compensation granted by the award dated 14.03.2013, made in M.C.O.P. No. 3448 of 2009, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellants-claimants filed M.C.O.P. No. 3448 of 2009, on the file of the Chief Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.6,00,000/- as compensation for the death of one Elumalai, who died in the accident that took place on 03.06.2009.

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 to pay a sum of Rs.3,74,000/- as compensation to the appellants.

4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 14.03.2013, made in M.C.O.P. No. 3448 of 2009, the appellants have come out with the present appeal.

5. Learned counsel appearing for the appellants contended that the deceased was a Vegetable Vendor and was earning a sum of Rs.6,000/- per month. The Tribunal fixed only a sum of Rs.4,500/- per month as notional income of the deceased. There are four dependents of the deceased. The Tribunal deducted 1/3rd towards personal expenses of the deceased, instead of 1/4th. The Tribunal ought to have applied correct multiplier, fixing the age of the deceased. The Tribunal has not awarded any amount towards damage to clothes, mental agony and transport expenses. The compensation awarded by the Tribunal towards loss of love and affection, loss of consortium and funeral expenses are meagre and prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the Tribunal in the absence of any material evidence to prove the avocation and income of the deceased, fixed a sum of Rs.4,500/- per month as notional income, which is not meagre. The total compensation awarded by the Tribunal is not meagre. The appellants have not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellants as well as the respondent and perused the materials available on record.

8. It is the contention of the appellants that the deceased was working as a Vegetable Vendor and was earning a sum of Rs.10,000/- per month. They failed to prove the same. In the absence of any material evidence to prove the avocation and income, the Tribunal fixed a sum of Rs.4,500/- per month as notional income of the deceased. The accident is of the year 2009 and the monthly income fixed by the Tribunal is meagre. This Court fixes a sum of Rs.6,500/- per month as notional income of the deceased. The Tribunal has not granted any enhancement towards future prospects. The deceased was aged 55 years at the time of accident. Considering the age and avocation of the deceased, the appellants are entitled to 10% enhancement towards future prospects. There are four dependents of the deceased. The Tribunal erroneously deducted 1/3rd towards

personal expenses of the deceased, instead of 1/4th. Hence, after deducting 1/4th towards personal expenses of the deceased and applying the multiplier '9', the amount awarded by the Tribunal towards pecuniary loss is modified to Rs.5,79,150/- {[Rs.6,500/- + Rs.650/- (10% of Rs.6,500/-)] x 12 x 9 x 3/4}. The amounts awarded by the Tribunal towards loss of consortium to the 1st appellant and funeral expenses are meagre and hence, the same are enhanced to Rs.40,000/- and Rs.15,000/- respectively. The Tribunal has not awarded any amount towards loss of estate. The appellants are entitled to a sum of Rs.15,000/- towards loss of estate. The amount awarded by the Tribunal towards loss of love and affection to the appellants 2 to 4 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
1.	Pecuniary loss	3,24,000/-	5,79,150/-	Enhanced
2.	Loss of love and affection to the appellants 2 to 4	30,000/-	30,000/-	Confirmed
3.	Loss of consortium to the 1 st appellant	10,000/-	40,000/-	Enhanced
4.	Funeral expenses	10,000/-	15,000/-	Enhanced
5.	Loss of estate	-	15,000/-	Granted
	Total	3,74,000/-	6,79,150/-	Enhanced by Rs.3,05,150/-

10.In the result, the appeal is allowed and the amount awarded by the Tribunal at Rs.3,74,000/- is enhanced to Rs.6,79,150/- along with interest and costs. The respondent-Transport Corporation is directed to deposit the enhanced award

amount, now determined by this Court, along with interest and costs, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No. 3448 of 2009. On such deposit, the appellants are permitted to withdraw their respective share of the award amount along with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. The appellants are directed to pay the court fee, if any, on the enhanced amount of Rs.3,05,150/-. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

gsa

To

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

Copy to:
The Section Officer,
V.R Section,
High Court, Madras.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.23859

+1cc to M/s.M.Malar, Advocate, S.R.No.23439

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C.M.A. No. 2961 of 2013

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