

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3432 of 2013

N.C.Jayapal

...Appellant/Petitioner

vs.

Tamil Nadu State Transport Corporation Ltd.,
rep. by its Managing Director,
Villupuram Division III,
Kanchipuram.

... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 23.04.2013 made in M.C.O.P.No.250 of 2011 On the file of Motor Accident Claims Tribunal (III Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : Mr.C.S.K.Sathish

JUDGMENT

(This case was heard through Video Conferencing)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 23.04.2013 passed by the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai in MCOP.No.250 of 2011.

2.Heard Mr.K.Varadha Kamaraj, learned counsel for the Appellant and Mr.C.S.K.Sathish, learned counsel for the respondent.

3.It is the contention of the Appellant who is the claimant in MCOP.No.250 of 2011 that the quantum of compensation awarded by the Tribunal is low and it has to be enhanced. According to him, the Tribunal has erroneously assessed the monthly income of the deceased at Rs.4,500/- per month. According to him, the Tribunal failed to consider the avocation of the deceased at the time of the accident and it is also his contention that a wrong multiplier has been adopted by the Tribunal.

4.The Tribunal under the impugned Award has directed the respondent Transport Corporation to pay the Appellant/claimant a compensation of Rs.2,20,000/- together with interest and cost.

5.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Pecuniary loss is calculated at Rs.3,000x12x5-Rs.1,80,000/-	
Loss of consortium	- Rs. 20,000/-
Funeral expenses	- Rs. 10,000/-
Love and Affection	- Rs. 10,000/-

Total	Rs.2,20,000/-

5.Before the Tribunal, the Appellant/claimant has filed 8 documents which were marked as Exs.P1 to P8 and two witnesses were examined on his side namely, the Appellant/claimant himself as PW1 and the Doctor who examined him as PW2. On the side of the respondent, one witness was examined but no document was filed before the Tribunal.

6.The deceased M.Chellathai is the wife of the Appellant and she died on 11.12.2010 as a result of an accident caused by a bus owned by the respondent Transport Corporation. The Appellant is the husband of the deceased and as her only legal heir, he preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the death of M.Chellathai.

7.The Tribunal passed the aforementioned Award in favour of the Appellant. The Tribunal under the impugned Award has assessed the monthly income of the deceased M.Chellathai who was a flower vendor at Rs.4,500/- on notional basis. The Tribunal has accepted the contention of the Appellant that the deceased was earning Rs.150/- per day at the time of the accident which works out to Rs.4,500 per month.

8.In the considered view of this Court when there is no documentary evidence produced by the Appellant before the Tribunal, the assessment made by the Tribunal is a correct assessment for an accident which took place in the year 2010. The deceased was aged 62 years at the time of the accident as per Ex.P5 (Postmortem certificate). The correct multiplier to be adopted as per the decision of Hon'ble Supreme Court in the case of Sarla Verma (Smt.)and Others vs. Delhi Transport Corporation and Another reported in (2009) 6 SCC 121 for a person aged 62 years is 7 multiplier, but the Tribunal has erroneously adopted 5 multiplier. If 7 multiplier is adopted the compensation payable to the Appellant towards pecuniary loss will be Rs.2,52,000/-(3000 x 12 x 7). The Tribunal has rightly

deducted 1/3rd towards personal expenses of the deceased.

9.The Tribunal has awarded a sum of Rs.20,000/- towards loss of consortium, Rs.10,000/- towards funeral expenses and another sum of Rs.10,000/- towards loss of love and affection which in the considered view of this Court is a just compensation and there is no scope for interference. Excepting for not adopting the correct multiplier 7, the compensation awarded by the Tribunal under various other heads is a just compensation.

10.For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.2,20,000/- to Rs.2,92,000/- by this Court in the following manner:

Pecuniary loss is calculated at Rs.3,000x12x7-	Rs.2,52,000/-
Loss of consortium	-Rs.20,000/-
Funeral expenses	-Rs.10,000/-
Love and Affection	-Rs.10,000/-

Total	Rs.2,92,000/-

11.In the result, the appeal is partly allowed. The respondent is directed to deposit the modified award amount of Rs.2,92,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation, after deducting the amount already deposited if any, to the credit of MCOP.No.250 of 2011, on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant, through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any shall be paid by the appellant before receiving the copy of this Judgment. No costs.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS-II)

//True Copy//

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Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
III Court of Small Causes, Chennai.

Copy to:
The Section Officer,
Vernacular Section,
Madras High Court.

C.M.A.No.3432 of 2013

SR(CO)
CB(30/04/2021)



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