IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3500 of 2013

1.S.Sumathi

2.S.Karaneeshwarar (minor)

3.S.Srividya (minor)
(Appellants 2 and 3 are minors represented by their mother and natural guardian 1st appellant)

4.V.Dhanalakshmi .. Appellants/Petitioners

Vs.

The Managing Director
Metropolitan Transport Corporation
Division-I
Pallavan House
Annasalai, Chennai-600 002. .. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.04.2010 made in M.C.O.P.No.659 of 2003 on the file of Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellants : Mr.K.V.Muthuvisakan

For Respondent : Mr.S.S.Swaminathan

J U D G M E N T

The matter is heard through "Video-Conferencing".

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 07.04.2010 made in M.C.O.P.No.659 of 2003 on the file of Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

2.The appellants are claimants in M.C.O.P.No.659 of 2003 on the file of Motor Accident Claims Tribunal, VI Small Causes Court, Chennai. They filed the said claim petition claiming a sum of Rs.25,00,000/- as compensation for the death of one V.Shankar, who died in the accident that took place on 31.10.2002.

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 and directed the respondent/Transport Corporation to pay a sum of Rs.14,70,180/- 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 aged 40 years at the time of accident, he was working as a Factory Administration Executive in Coromandel Agencies, Neelangarai and was earning a sum of Rs.11,430/- per month. The Tribunal failed to award any enhancement towards future prospects. The Tribunal erred in applying multiplier '14' instead of '16'. The Tribunal has not awarded any compensation towards loss of expectation of life. 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 are entitled to 25% enhancement towards future prospects, Rs.40,000/- towards loss of consortium and the appellants are entitled to compensation as claimed by them.

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

8.It is the contention of the appellants that the deceased was aged 40 years at the time of accident, he was working as a Factory Administration Executive and was earning a sum of Rs.11,430/- per month. The appellants have produced Exs.P5, P11 and P12/salary slips to prove the income of the deceased. The Tribunal accepting the same, fixed a sum of Rs.11,430/- as monthly income of the deceased. As per Exs.P8 and P9, the date of birth of the deceased is 26.07.1959. On the date of accident, the deceased has completed 43 years and therefore, the Tribunal fixed the age of the deceased as 44 years as per Ex.P3/Postmortem certificate, applied multiplier '14' and deducted 1/4th towards personal expenses, which is proper. The Tribunal has not granted any enhancement towards future prospects. The appellants are entitled to 25% enhancement towards future prospects. The accident has occurred on 31.10.2002. During the financial year 2002-2003, upto Rs.50,000/-, there is nil tax. Thus, the calculation for arriving annual income is as follows :-

Monthly salary of the deceased	...	Rs.11,430/-
25% enhancement towards future prospects	...	Rs.2,858/-

		Rs.14,288/-

Annual income (14,288 x 12)	...	Rs.1,71,456/-

Income Tax Slab for financial year 2002-2003

Upto Rs.50,000/- - Nil

From Rs.50,001/- to Rs.60,000/- (10%)
[Rs.60,000/- - Rs.50,000/- = Rs.10,000/- X 10%] - Rs.1,000/-

From Rs.60,001/- to Rs.1,50,000/- (20%)
[Rs.1,50,000/- - Rs.60,000/- = Rs.90,000/- X 20%] - Rs.18,000/-

Above Rs.1,50,001/- (30%)
(Rs.1,71,456/- - Rs.1,50,000/- = Rs.21,456/-)
Rs.21,456/- X 30% - Rs.6,437/-

Rs.25,437/-

Annual income after deducting income tax
(Rs.1,71,456/- - Rs.25,437/-) - Rs.1,46,019/-

Thus, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.15,33,200/- (Rs.1,46,019/- X 14 X 3/4). The Tribunal has awarded a sum of Rs.10,000/-, Rs.15,000/- and Rs.5,000/- towards loss of consortium to the 1st appellant, loss of love and affection to the appellants 2 and 3 and funeral expenses, which are meagre and hence, the same are hereby enhanced to Rs.40,000/-, Rs.40,000/- each and Rs.15,000/- respectively. The Tribunal has not awarded any amount towards loss of estate and hence, a sum of Rs.15,000/- is awarded towards loss of estate. 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	14,40,180	15,33,200	Enhanced
2.	Loss of consortium to the 1st appellant	10,000	40,000	Enhanced
3.	Loss of love and affection to the appellants 2 and 3	15,000	80,000	Enhanced
4.	Funeral expenses	5,000	15,000	Enhanced
5.	Loss of estate	-	15,000	Granted
	Total	14,70,180	16,83,200	Enhanced by Rs.2,13,020/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.14,70,180/- is hereby enhanced to Rs.16,83,200/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay necessary Court fee, if any, on the enhanced compensation. It is made clear that the appellants are not entitled for any interest for the delay period on the amount of Rs.2,13,020/- enhanced by this Court as per the order of this Court dated 05.12.2013 made in M.P.No.3 of 2013 in C.M.A.SR.No.53796 of 2012. The respondent/Transport Corporation is directed to deposit the entire 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 1 and 4 are permitted to withdraw their respective share of the award amount as per the apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. The share amounts of the minors/appellants 2 & 3 are directed to be deposited in any one of the Nationalised Banks till the minors attain majority. The 1st appellant being mother of the minors/appellants 2 & 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minors. No costs.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

kj

To
1.VI Judge
The Motor Accident Claims Tribunal
Small Causes Court, Chennai.

2.The Section Officer
V.R.Section
High Court, Chennai.
+1 cc to M/s.K.V.Muthu Visakan, Advocate Sr.No. 36049
+1 cc to M/s.S.S.Swaminathan, Advocate Sr.No. 36100

C.M.A.No.3500 of 2013

PA(CO)
RMP(17/05/2021)