

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.09.2020
CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
C.M.A.No.390 of 2016

Tmt.Dhakshayani

...Appellant/ Petitioner

/versus/

The Managing Director,
Metropolitan Transport Corporation Limited,
"Pallavan House",
Anna Salai,
Chennai-600 002.

...Respondent/ Respondent

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree passed in M.C.O.P.No.736 of 2013 dated 06.06.2015 of the file of the Motor Accidents Claims Tribunal, (III Additional District Judge), Poonamalee.

For Appellants : Mr.A.R.Suresh

For Respondent :Mr.Suresh Srinivasan
for Mr.K.Moorthy

J U D G M E N T

(The case has been heard through video conference)

This appeal is filed by the claimant for enhancement of compensation.

2. Heard the learned counsel for the appellant and the learned counsel for the Transport Corporation who is the respondent herein.

3. On 04.07.2013 at about 23.15 hrs, one Murugan was hit by the Metropolitan Transport Corporation bus bearing registration No.TN 01 N 9267 while he was crossing the Anna salai near Hotel Bhuhari. The accident occurred due to rash and negligent driving of the bus driver. A criminal case was registered against the driver for causing the death of Murugan. His sister who is the appellant herein filed claim petition

seeking compensation of Rs.7,00,000/- for the death of Murugan. The Tribunal awarded Rs.65,000/- as compensation. Hence the appeal for enhancement.

4. The claim petition goes to show that the deceased Murugan, after accident was admitted in the Government General Hospital on 04.07.2013, but died in the hospital on 07.07.2013. The claimant is the sister of the deceased. There is no other legal heirs or dependants for the said deceased Murugan. In the claim petition it has been averred that Murugan was painter by profession and earning Rs.6,500/- per month. The claimant, who is the elder sister of the deceased Murugan, was married to one Srinivasan and she has two daughters. Her husband Srinivasan died on 15.09.2008 and the death certificate of Srinivasan is marked as Ex.P-10. After the demise of her husband, she is under the care and protection of her brother Murugan.

5. The Tribunal after considering the documents to show the relationship between the deceased and the claimant accepted that the claimant is the blood sister of the deceased and he had no other relatives closer than the claimant. However considering the address found in the family card, the Tribunal held that the claimant has not proved that she was living with the deceased or she was depending on the deceased. Hence a sum of Rs.50,000/- for pain and suffering and Rs.15,000/- for funeral expenses consolidatedly Rs.65,000/- was awarded.

6. The learned counsel for the appellant would submit that the Tribunal having held that through Ex.P-8, Ex.P-10 and Ex.P-13 the fact that the parents of the deceased Murugan pre-deceased and Murugan died as a bachelor and the claimant is the widowed sister of the deceased Murugan, ought to have adequately compensated the claimant being the dependant of Murugan.

7. This Court on appreciating the evidence placed before the Tribunal and the submissions made by the learned counsel for the appellant finds that the probability of the claimant (widow sister) being under the care of the deceased Murugan(brother) cannot be ruled out. The entry in the family card, which was issued in the year 2008, cannot be the test to decide whether or not the claimant depending on the deceased Murugan. The husband of the claimant died on 15.09.2008 and the brother of the claimant died on 04.07.2013. When there is none other than, the claimant for the deceased Murugan to claim relationship, the Tribunal ought to have pragmatically considered the facts placed by the claimant. When there is no contra evidence to the claimant case, the Tribunal ought to have

considered the claimant as the dependant of the deceased Murugan.

8. Therefore, this Court is of the view when the Tribunal thought it fit to award a consolidate compensation, the said amount should have been fair and reasonable. In view of this Court, Rs.50,000/- to the widowed sister for the loss of her brother, who had none other than the claimant to call as relative is very less. Hence a consolidate award of Rs.2,50,000/- is ordered, which shall be inclusive of all pecuniary and non pecuniary loss along with interest at the rate of 7.5% from the date of claim petition till the date of realisation.

9. The respondent/Transport Corporation is directed to deposit the award amount within a period of twelve weeks from the date of receipt of copy of this judgment. On such deposit, the claimants shall withdraw the same on filing appropriate petition.

10. Accordingly, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpl
To

The Motor Accident Claims Tribunal,
(III Additional District Judge), Poonamalee.

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.A.R.Suresh , Advocate SR.No. 31663

C.M.A.No.390 of 2016

A.SK(19.04.2021)