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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.968 of 2016  
C.M.P.No.7418 of 2016

The Managing Director,  
Tamil Nadu State Transport Corporation Limited,  
Pudukottai.

..Appellant/Respondent

Vs.

1.Selvi

2.Manimaran(Minor)  
Rep by their Mother 1<sup>st</sup> Respondent

3.Mrs.Rathinam

..Respondents/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 13.02.2015 made in M.C.O.P.No.300 of 2014 on the file of the Motor Accident Claim Tribunal cum Principal District Judge, Perambalur.

For Petitioner : Mr.V.S.Vijay Veliappan  
For Respondents : Mr.T.Gobinath for RR1 to 3

#### J U D G M E N T

The appeal on hand is filed against the Judgment and Decree dated 13.02.2015 made in M.C.O.P.No.300 of 2014 on the file of the Motor Accident Claim Tribunal cum Principal District Judge, Perambalur.

2. The accident occurred on 09.05.2014 at about 9.10 a.m. in the Pudukottai to Manaparai Main Road at the place near Samathuvapuram pirivu Road, Annavasal. A case was registered by the Annavasal Police Station in Crime No.49/2014 under Section 304A I.P.C.

3. The claim petition was filed by the dependents namely first claimant is the wife of the deceased, second claimant is the minor son and the third claimant is the mother of the



deceased. All the three claimants are dependents of the deceased as the deceased was the sole breadwinner of the family and a compensation of Rs.20,00,000/- is sought for. The Tribunal adjudicated the issues and found that the appellant/Transport Corporation bus is liable for the accident and the claimants are entitled for compensation. The quantum of compensation was assessed by the Tribunal with reference to the loss of income, love and affection, funeral charges and other various heads and the total compensation of Rs.13,88,000/- was awarded.

4. The learned counsel appearing on behalf of the appellant/Transport Corporation mainly contended that the quantum of compensation awarded by the Tribunal is ex-orbitant and there is no proof to establish the definite income of the deceased person. Therefore, the Tribunal ought not to have fixed the income of the deceased as Rs.7,500/-. The appellant has stated that in the absence of any document to establish the proof of age and income, the Tribunal has committed an error in fixing the monthly income of Rs.7,500/-.

5. This Court is of the considered opinion that as per the claim petition, the deceased was aged about 35 years, at the time of accident and he was Cooking Master at Thevar Hotel. Undoubtedly, the job of cooking master is a skilled job and therefore, fixation of monthly income as Rs.7,500/- cannot be said to be excess. In fact, the fixation is lesser than that of the salary paid in the market, during the relevant point of time. Apart from the monthly income of Rs.7,500/- fixed by the Tribunal, this Court is of the opinion that compensation awarded under the head of love and affection is inadequate. The Tribunal awarded Rs.10,000/- for love and affection to each dependents, which is far below than that of the entitlement of the dependents. Therefore, this Court is inclined to enhance the compensation suo motu under the heads of love and affection, funeral expenses and transportation charges. Accordingly, Rs.50,000/- is granted for love and affection to each dependents. The Transportation charges are enhanced from Rs.5,000/- to 10,000/- and funeral charges are enhanced from Rs.5,000/- to Rs.15,000/-. Accordingly, the claimants are entitled for the enhanced compensation of Rs.1,35,000/-. Thus, the total compensation payable to the claimants are Rs.15,23,000/-.

6. The learned counsel appearing on behalf of the appellant made a submission that the compensation awarded by the Tribunal has already been deposited. Therefore, the appellant/Transport Corporation is directed to deposit the enhanced compensation, now fixed by this Court along with interest within a period of six weeks from the date of receipt of a copy of this Judgment and on such deposit, the claimants are permitted to withdraw the



said amount as per the apportionment granted by the tribunal and by depositing the minor's portion in any one of the Nationalized Bank with interest bearing deposit scheme and the payments are to be made through RTGS. Thus, the claimants are entitled for enhanced compensation along with interest at the rate of 7.5% per annum.

7. Accordingly, the judgment and decree dated 13.02.2015 passed in M.C.O.P.No.300 of 2014 is modified and the Civil Miscellaneous Appeal stands allowed in part. No costs. Consequently, connected miscellaneous petition is also closed.

s/d-  
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

ssb

To

The Motor Accident Claim Tribunal cum  
Principal District Judge, Perambalur.

+1 CC to Mr.V.S.Vijay Vellappan, Advocate sr 21548

+1 CC to Mr. Gopinath, Advocate sr 21389.

C.M.A.No.968 of 2016

PPA(CO)  
SP(25/08/2021)