

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3870 of 2019

1.Thangaponnu
2.Minor Nithish Kannan
Rep.by his next friend mother Thangaponnu
1st appellant herein
3.Arthanari
4.Govindammal ... Appellants/Petitioners

vs.

The Managing Director,
Tamilnadu State Transport
Corporation (Salem) Limited,
Salem - 7. .. Respondent/Respondent

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, challenging the award passed in Judgment and Decree dated 16.11.2012 made in M.C.O.P.No.54 of 2010 on the file of the Motor Accident Claims Tribunal Subordinate Judge, Mettur.

For Appellants : Mr.SP.Yuaraj
For Respondent : Mr.D.Raghu

J U D G M E N T

The present Civil Miscellaneous Appeal on hand is preferred against the judgment and decree dated 16.11.2012, made in M.C.O.P.No.54 of 2010 on the file of the Motor Accident Claims Tribunal, Subordinate Judge Court, Mettur.

2. The claimants are the appellants and the appeal is filed, seeking enhancement of compensation.

3. The learned counsel appearing on behalf of the appellants/claimants mainly contended that the compensation awarded by the Tribunal is inadequate and not in accordance with the principles laid down by this Court. No Future Prospects is granted and the compensation granted under the other heads are also on the lesser side. Thus, the compensation is to be enhanced by this Court. The total compensation of Rs.11,82,000/-

granted by the Tribunal is on the lesser side in view of the fact that the deceased at the time of death was aged about 30 years and he died leaving behind his wife, minor son and aged parents. Accordingly, it is prayed that the award is to be set aside and the compensation is to be enhanced.

4. The learned counsel appearing on behalf of the respondent/ Tamil Nadu State Transport Corporation Limited objected the contentions by stating that the Tribunal has fixed the monthly income as per the principles laid down by this Court and a reasonable compensation of Rs.11,82,000/- is granted and therefore, the appeal is to be dismissed.

5. The accident occurred on 01.04.2010 at about 22.30 hours near Vellaipillaiyar Koil, Nangavalli to Jalakandapuram Road. Nangavalli Police Station registered a case in Crime No.86/2010 under Sections 279 and 304 (A) IPC. The deceased was the rider in Hero Honda Splendor bike No.TN-30-U-3390. The two wheeler dashed with the respondent Transport Corporation Bus bearing Registration No.TN-30-N0265 and the deceased sustained fatal injuries and died. The Claim Petition was filed. The Tribunal adjudicated the issues. The negligence was fixed on the driver of the Transport Corporation Bus and consequently, the Tribunal arrived a conclusion that the respondent/Transport Corporation is liable to pay compensation to the claimants. As far as the quantum of compensation is concerned, this Court is of the considered opinion that Future Prospects, for which, the claimants are entitled has not been granted by the Tribunal. As far as the monthly income fixed by the Tribunal is concerned, this Court is of the opinion that there is no error or perversity. However, the Future Prospectus, for which, the claimants are entitled is to be granted. The deceased was aged about 30 years at the time of accident and therefore, they are entitled for the Future Prospectus of 40% of the monthly income. There are four dependents and therefore, 1/4th share is to be deducted. The Tribunal has not fixed the compensation properly with reference to the awarding of Future Prospectus. Thus, this Court is inclined to modify the award passed by the Tribunal has detailed hereunder:

1. Loss of Income		
(Rs.8663/-x12x16)	:	16,63,596/-
2. Loss of Consortium to Wife:		40,000/-
3. Love and Affection to		
the Minor Son	:	40,000/-
4. Funeral Expenses	:	15,000/-
5. Loss of Extate	:	15,000/-

TOTAL	:	17,73,596/-

6. Thus, the appellants/claimants are entitled for a total compensation of a sum of Rs.17,73,596/- (Rupees Seventeen Lakh Seventy Three Thousand Five Hundred and Ninety Six only) along with the interest at the rate of 7.5% per annum. The appellants/claimants are not entitled for any interest for the delay period and the delay period is to be calculated by the Tribunal and the interest for the said period is to be deducted, while disbursing the award amount.

7. Accordingly, the respondent/Transport Corporation is directed to deposit the entire award amount with accrued interest, deducting the interest for the delay period, within a period of twelve(12) weeks from the date of receipt of a copy of this judgment and on such deposit, the major claimants are permitted to withdraw their respective portion of the award amount along with the interest by filing an appropriate application before the Tribunal and the minor share is concerned, the same is to be deposited in any one of the Nationalized Bank in an interest bearing cumulative deposit scheme, which is to be renewed periodically till the minor attains the age of majority. The appellants/claimants are directed to pay the additional Court fee, if any, with reference to the enhanced compensation within a period of two(2) weeks from the date of receipt of a copy of this judgment and the payments are to be made through RTGS.

8. Accordingly, the judgment and decree dated 16.11.2012 passed in M.C.O.P.No.54 of 2010 stands modified and consequently, the Civil Miscellaneous Appeal in C.M.A.No.3870 of 2019 is allowed in part. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
The Motor Accident Claims Tribunal
Subordinate Court, Mettur.

2.The Section Officer,
V.R Section,
High Court, Madras.

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+1cc to Mr.D.Raghu, Advocate SR.31240
+1cc to Mr.SP.Yuaraj, Advocate SR.31051

CMA No.3870 of 2019

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