

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2020
CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1516 of 2020

1. Mari,
W/o. Baskar
2. B.Gurumoorthy,
S/o. Baskar
3. B. Vimalraj,
S/o. Baskar
4. B.Kavaskar,
S/o. Baskar
All are residing at
Anaiyampettai,
Keezhpoovanikuppam,
Cuddalore Taluk. ... Appellants/Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport
Corporation,
(Villupuram Divn.I) Ltd.,
No.3/137, Salamedu,
Vazhuthareddy Post,
Villupuram-605 602. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and Decree dated 22.07.2020, made in M.C.O.P.No.3517 of 2015, on the file of the Motor Accident Claims Tribunal/I Additional District and Sessions Judge, Cuddalore.

For Appellants : Mrs.Ramya V Rao

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

J U D G M E N T

The claimants are the appellants, not feeling satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal seeking for enhancement of compensation.

2. The brief facts leading to the filing of this appeal are as follows:

The deceased by name Baskar, aged about 44 years at the time of accident. He was working as a Carpenter and earning a sum of Rs.15,000/- per month. On 20.08.2015 at about 06.00 p.m., while the deceased was walking from north to south, in the extreme left side of Cuddalore-Chidambaram Road, at Keezhpoovanikuppam village, a bus belongs to the respondent transport corporation bearing Regn. No.TN-32 N-3834 came in the same direction in a rash and negligent manner and dashed against the deceased, in which he has sustained fatal injury and died in the Government Headquarters Hospital, Cuddalore. The claimants are wife and three children have filed the claim petition claiming for a compensation of Rs.30 lakhs.

3. The respondent transport corporation has contested the claim petition on the ground that the accident was taken place due to the negligence of the deceased. The deceased was under the influence of alcohol, without following the traffic rules, had crossed the road from right to left, immediately, the driver of the bus applied break and stopped, however, the deceased hit on the front portion of the bus and fell down. Hence, there is no fault on the driver of the respondent and the transport corporation is not liable to pay any compensation. The respondent had also disputed the monthly income of deceased and contended that the compensation claimed by the deceased was highly excessive and speculative.

4. Before the Tribunal, the claimants have examined 2 witnesses and marked as many as 6 documents as Exs.P1 to P6. On the side of the respondents, no witness was examined and no document was marked.

5. The Tribunal after considering the materials available on record came to the conclusion that the accident was taken place due to the rash and negligent driving of the driver of the bus. Hence, the respondent is liable to pay the compensation. In respect quantum of compensation, the Tribunal had fixed the monthly income of deceased as Rs.7500/-, added 25% towards future prospects, deducted 1/4th towards personal expenses, arrived the notional monthly income of deceased as Rs.7,032/- and applying the multiplier of 14, arrived the loss of income as Rs.11,81,376/-. That apart, The Tribunal has awarded a sum of Rs.40,000/- towards loss of consortium, a sum of Rs.40,000/- towards loss of love and affection, a sum of Rs.10,000/- towards transport expenses and a sum of Rs.10,000/- towards funeral expenses. Finally, the Tribunal has awarded a sum of Rs.12,81,376/- as a total compensation. Not being satisfied with the same, the claimants are before this court by way of filing

the present appeal.

6. Mrs. Ramya V. Rao, learned counsel appearing for appellant would submit that the deceased was working as a carpenter at the time of accident. He was 47 years old and earning a sum of Rs.15,000/- per month. However, the Tribunal has taken the monthly income only as Rs.7500/- without any reason whatsoever. That apart, towards loss of consortium and loss of love and affection, only a meagre amount has been awarded by the Tribunal. Hence, she has sought for enhancement of compensation.

7. Mr. C.S.K.Sathish, learned counsel appearing for respondent would submit that there is no evidence available on record to prove the monthly income of deceased. However, the Tribunal considering the other circumstances, had fixed the monthly income as Rs.7500/-, which is reasonable one. He has also stated that on the other heads, the Tribunal has awarded just and fair compensation. Hence, there is no reason to interfere with the same.

8. I have heard and considered the submissions made by learned counsel appearing for appellants as well as 2nd respondent and perused the records.

9. The deceased was a carpenter, a skilled labour. The accident was taken place in the year 2015, being a carpenter, he could easily earn a sum of Rs.450/- per day and a monthly income would be around Rs.12,500/-. However, the Tribunal, without any reason whatsoever, had fixed the monthly income at Rs.7500/-, which is on a lower side. Considering the age of deceased, 25% of monthly income should be added towards future prospects, which comes to Rs.3125/-. Thus, the notional monthly income comes to Rs.15,625/- (Rs.12,500 + 3125 = Rs.15625), and there are four claimants, 1/4th of monthly income should be deducted towards personal expenses, which comes to Rs.3900/-. Hence, after applying the multiplier of 14, the loss of dependency comes to Rs.19,69,800/- (Rs.11725/- x 14 x 12). The 1st claimant being a wife, she is entitled for a sum of Rs.40,000/- towards loss of consortium. The other claimants being major sons of deceased, they are entitled for a sum of Rs.60,000/- each towards parental consortium to the claimants 2 to 4. The transport expenses of Rs.10,000/- awarded by the Tribunal is confirmed. That apart, the claimants are also entitled for a sum of Rs.15,000/- each towards funeral expenses and loss of estate.

10. In view of the above, the award passed by the Tribunal is modified as follows :-

Sl. No.	Headings	Amount Awarded by the Tribunal Rs.	Amount awarded by this Court	Award confirmed or enhanced
1	Loss of income	11,81,376	19,69,800	enhanced
2	Loss of consortium to the 1 st appellant	40,000	40,000	confirmed
3	Loss of love and affection to the appellants 2 to 4	40,000	60,000	enhanced
4	Transport expenses	10,000	10,000	confirmed
5	Funeral expenses	10,000	15,000	enhanced
6	Loss of estate	Nil	15,000	granted
	Total	12,81,376	21,09,800 (rounded to 21,10,000)	enhanced

Thus, the appellants are entitled to get a sum of Rs.21,10,000/- towards compensation instead of Rs.12,81,376/- awarded by the Tribunal.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.12,81,376/- is hereby enhanced to Rs.21,10,000/- 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. The respondent Transport Corporation is directed to deposit the enhanced award amount now determined by this Court along with interest, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit of the enhanced compensation amount, now determined by this Court, the appellants are entitled to share the amount proportionately as ordered by the Tribunal and the appellants are permitted to

withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Asst.Registrar (CS I)

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Sub Asst. Registrar

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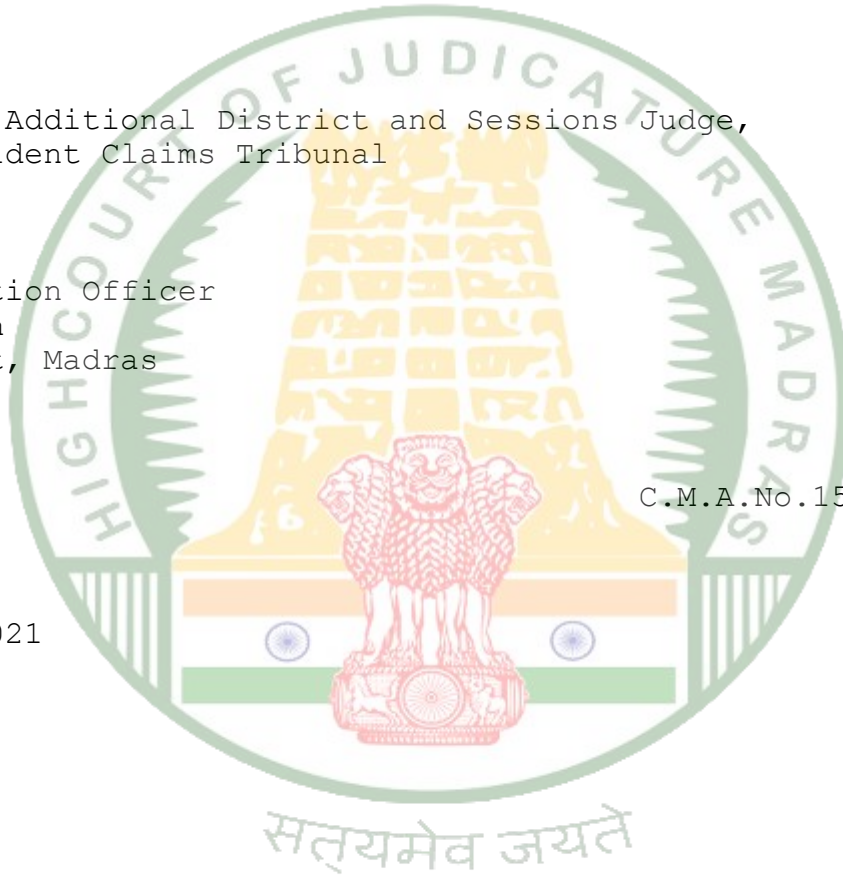
To

1.The Ist Additional District and Sessions Judge,
Motor Accident Claims Tribunal
Cuddalore.

2.The Section Officer
VR Section
High Court, Madras

C.M.A.No.1516 of 2020

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