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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.421 of 2010

and

M.P.No.1 of 2010

(Through Video Conferencing)

1.Shanthi, (died) Memo filed dt 08/09/2020

W/o.Raji

2.Vani,

D/o.Raji

3.Vanitha,

D/o.Raji

... Appellants/Petitioners

Vs.

The Managing Director,
Tamil Nadu Government Chennai Metropolitan
Transport Corporation,
Ayanavaram, Chennai.

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.A.C.T.O.P.No.974 of 2006, dated 28.03.2008, on the file of the Motor Accident Claims Tribunal, District Judge, Tiruvannamalai.

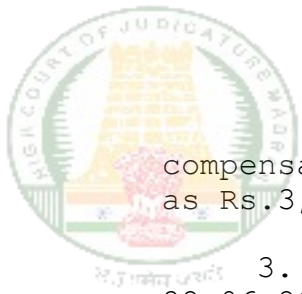
For Appellants : Mr.J.Vijayaraghavan

For Respondent : Mr.S.Siva Kumar

JUDGMENT

The claimants are the appellants in this appeal. They are aggrieved by the impugned Judgment and Decree dated 28.03.2008 passed by the Motor Accidents Claims Tribunal, District Judge, Tiruvannamalai in M.A.C.T.O.P.No.974 of 2006.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.3,07,000/- as compensation payable together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit to the appellants/claimants. The Tribunal has awarded the aforesaid



compensation by considering the notional income of the deceased as Rs.3,000/- per month by applying the multiplier of 15.

3. Pending the appeal, the 1st appellant has passed away on 22.06.2006. To this effect, a memo has also been filed. The 2nd and 3rd appellants are the legal representatives of the 1st appellant.

4. In this appeal, the appellants/claimants are seeking enhancement of compensation based on the decision of the Hon'ble Supreme Court in

(i) Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12.

(ii) National Insurance Co. Ltd. Vs. Pranay Sethi and Others, (2017) 16 SCC 680.

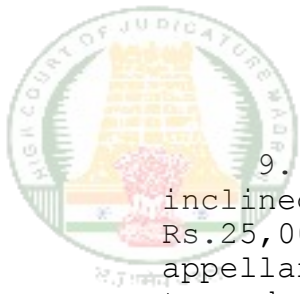
(iii) Magma Insurance Company Limited Vs Nanuram @ Chuhruram and others, (2018) 18 SCC 130 and therefore submitted that amount of compensation awarded by the Tribunal for a sum of Rs.3,07,000/- has to be enhanced.

5. In this appeal, they have also filed Civil Miscellaneous Petition in C.M.P.No.1 of 2010 under Order 41 Rule 27(1) b of C.P.C, to permit the petitioners/appellants/claimants to place the Last Pay Certificate issued by Chennai Corporation in favour of the deceased(Raji) and to mark the same as an Exhibit.R1 on their side.

6. Heard the learned counsel for the appellants and the respondent. I have considered the arguments advanced on behalf of the appellants and the respondents and perused the Additional Documents which is permitted to be taken on record.

7. The deceased was an employee of the Corporation of Chennai. The Salary Certificate, Last Pay Certificate of the deceased has been furnished. The total pay of the deceased as per the said documents is Rs.6,766/-. Under these circumstances, the compensation awarded by the Tribunal is liable to be enhanced by considering the aforesaid income of the deceased as the last pay for the purpose of awarding compensation.

8. Pending the appeal, the 1st appellant has passed away. As per the decision of the Hon'ble Supreme Court in National Insurance Co. Ltd. Vs. Pranay Sethi and Others, (2017) 16 SCC 680, the last drawn pay is relevant for determining the compensation as per the decision of the Hon'ble Supreme Court in Magma Insurance Company Limited Vs Nanuram @ Chuhruram and others, (2018) 18 SCC 130. The children are also entitled for parental consortium.



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9. Since the accident is of the year 2006, this Court is inclined to award compensation towards loss of consortium of Rs.25,000/- each to the 2nd & 3rd appellants. Since the 1st appellant has passed away, no compensation can be awarded towards loss of consortium as they right to claim the aforesaid compensation dice with her.

10. Therefore, the compensation of Rs.3,07,000/- awarded by the Tribunal is recomputed as follows:-

Heads and Calculation	Amount
Loss of earning capacity:-	
Monthly Income : Rs.6,766/-	
Add: Future Prospects at 30% (6,766 x 30/100) : Rs.2030/-	

: Rs.8,796/-	
Less: Personal Expenses of the Deceased (8,796 x 1/3) : Rs.2,932/-	

: Rs.5,864/-	
Annual Contribution to the family (5,864 x 12) : Rs.70,368/-	
Multiplier 14 (70,368 x 14) : Rs.9,85,152/-	
Loss of parental consortium to the 2 nd & 3 rd appellants (25,000 x 2)	Rs. 50,000/-
Funeral Expenses & Transportation	Rs. 7,500/-
Total	Rs.10,42,652/- Rounded of to Rs.10,43,000/-



Therefore, the compensation of Rs.3,07,000/- awarded by the Tribunal is enhanced to Rs.10,43,000/-.

11. In the result, the Civil Miscellaneous Appeal filed by the appellants/claimants is partly allowed. Since the additional amount of compensation has to be paid by the respondent/State Transport Corporation the appellants/claimants are directed to pay deficit court fee on the enhanced amount of compensation, if necessary.

12. The respondent/State Transport Corporation is therefore directed to deposit a sum of Rs.10,43,000/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

13. Since the 1st appellant died during the pendency of this present appeal, the 2nd & 3rd appellants/2nd & 3rd claimants being the Legal Representatives of the 1st appellant, the compensation determined by this Court shall be divided between 2nd & 3rd appellants/2nd & 3rd claimants equally. The 2nd & 3rd appellants/2nd & 3rd claimants are therefore permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn by them and the deceased/1st appellant during her lifetime, if any, by filing suitable application before the Tribunal. No cost. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

arb

To:

The Motor Accidents Claims Tribunal,
District Judge, Tiruvannamalai.

C.M.A.No.421 of 2010
and M.P.No.1 of 2010

SRA(CO)
HS(02/09/2021)