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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 V.BHARATHIDASAN

C.M.A.No.1604 of 2020

1. Angammal

2. Rajendran

...Appellants/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai 600 002

...Respondents/Respondents

PRAYER:- Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act, 1988, to enhance the judgment and decree dated 01.02.2020, passed in MCOP No.6923 of 2017, on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes Court, Chennai.

For Appellant : Mr.S.Ravikumar

For Respondent : Mr.Suresh Srinivasan

J U D G M E N T

The claimants are the appellant seeking for enhancement of compensation.

2. It is the case of fatal accident. The deceased is the son of the claimants, by name, Manikandan. According to the claimants on 24.09.2017, at about 9.40 p.m., when the deceased was riding a two wheeler along with another person as a pillion rider on the K.H. Road, Ayanavaram, a Transport Corporation Bus belonging to the respondent came in a rash and negligent manner and hit the motor cycle from behind. Due to that impact, the rider and the pillion rider of the motorcycle fell down and the left rear wheel of the bus ran over them, and both of them sustained serious injuries and died on the spot. Immediately, a criminal case was also filed against the driver of the Corporation bus. According to the claimant at the time of accident,



the deceased Manikandan was 27 years old and he was working as a Mason and earning Rs.700 per day and he was the sole breadwinner of the family. As the claimants, being aged old parents and depending upon the deceased, claim a sum of Rs.30,00,000/- as compensation and filed the filing the claim petition.

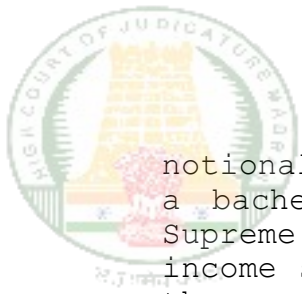
3. The Respondent/ Transport Corporation contested the claim petition on the ground that the accident has taken place due to the rash and negligent act of the rider of the two wheeler, and when he was trying to overtake the corporation bus, lost his control and fell into a pit on the road side and sustained injury and the driver of the Transport Corporation bus was not responsible for the accident and also contested the case that the compensation claimed by the claimants are highly excessive and speculative.

4. To prove the case, before the Tribunal, the claimants examined 3 witnesses and marked as many 12 documents. The driver of the bus was examined as RW1. No documentary evidence has been marked on the side of the respondent.

5. The Tribunal after considering the materials and also the evidence of the eye witness to the occurrence, has held that the accident has taken place due to the rash and negligent driving of the driver of the transport corporation bus. Regarding the quantum of compensation, the Tribunal fixed the monthly income of the deceased at Rs.9000/- and adding 40% towards future prospects and after deducting 50% towards his personal expenses, applying the multiplier of 7, arrived at the loss of dependency at Rs.12,85,200 and in respect of other heads the Tribunal ordered Rs.1,85,000/- and totally a sum of Rs.14,70,200/- was awarded by the Tribunal towards compensation. Not feeling satisfied with the same, the claimants are before this Court with this appeal.

6. Heard the learned counsel for the petitioner and perused the materials available on records carefully.

7. The claimants are the parents of the deceased, who was 27 years old at the time of accident and he was a bachelor. It is also stated that he was a mason and earning minimum Rs.700/- per day and nearly Rs.20000/- per month, However, the Tribunal found it excessive and fixed the monthly income at Rs.9000/-. The deceased is the mason, a skill labour and the same was not disputed and as a mason, he can easily get Rs.500 to 600 per day and even assuming he was working 20 days per month as a skilled labour, he would easily earn Rs.11000/- per month. In the said circumstances, the monthly income of the deceased is fixed at Rs.11000/- and adding 40% towards his future prospects, the



notional monthly income comes to Rs.15,400/-. The deceased was a bachelor and as per the guide line issued by the Hon'ble Supreme Court, in the case of Pranay Sethi, 50% monthly income should be deducted towards his personal expenses. Hence, the monthly income comes to Rs.7700/-. As the deceased was 27 years old at the time of accident, appropriate multiplier of 17 would be applied and hence, the loss of dependency comes to Rs.15,70,800 (7700x12x17) and the claimants being the parents of the deceased are entitled to a sum of Rs.80000/- towards filial consortium and Rs.15000/- each towards loss of estate and funeral expenses and Rs.5000/- towards transport expenses, it comes to Rs.16,85,800/- rounded to Rs.16,86,000/- instead of Rs.14,70,200/- as awarded by the Tribunal.

8. Considering all the above circumstances, the award passed by the Tribunal modified as follows:-

Sl. No.	Headings	Amount Awarded by the Tribunal Rs.	Amount awarded by this Court	Award confirmed or enhanced
1	Loss of dependency	12,85,200	15,70,800	enhanced
2	Loss of estate	15,000	15,000	confirmed
3	Funeral expenses	15,000	15,000	confirmed
4	Filial consortium	-	80,000	awarded
5	Loss of love and affection	1,50,000	-	
6	Transportation expenses	5,000	5,000	confirmed
	Total	14,70,200	16,85,800	enhanced

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.14,70,200/- is hereby enhanced to Rs.16,85,800/- 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 and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw the enhanced award amount



along with interest and costs as apportioned by the Tribunal. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mrp

To:

The IV Judge,
Motor Accidents Claims Tribunal,
Court of Small Causes Court,
Chennai.

Copy to

The Section Officer,
VR Section,
High Court, Madras - 104.

+1cc to Mr.S.Ravikumar, Advocate, Sr.38397

+1cc to Mr.K.Moorthy, Advocate, Sr.38542

C.M.A.No.1604 of 2020

SVI[co]
NSK 25/10/2021