



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.M.A.No.1599 of 2020

1. Jothi

2. Sekar

3. Deepa

4. Minor Sneha

..Appellants/Claimants

Minor rep by next Friend

and Natural Guardian her Mother

1st Appellant herein

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 600002.

..Respondent/Respondent

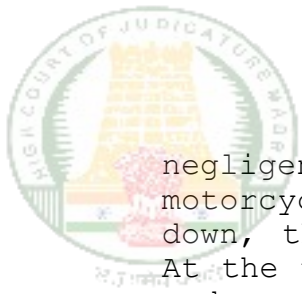
Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Order and Decree dated 01.02.2020, made in M.C.O.P.No.6922 of 2017, on the file of the Motor Accident Claims Tribunal, IV Judge, Small Causes Court, Chennai.

For Appellants	:	Mr.Amar D.Pandiya
For Respondent	:	Mr.Suresh Srinivasan for K.Moorthy

J U D G M E N T

Not fully satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the appellants/claimants are before this Court with this appeal seeking enhancement of compensation.

2. It is a case of fatal accident. The deceased by name Tamilarasan, aged about 20 years, was a bachelor at the time of the accident. The appellants/claimants are the parents and unmarried sisters of the deceased. According to the appellants/claimants, on 24.09.2017 at about 09.40 p.m. the deceased Tamilarasan was travelling as a pillion rider in the motorcycle driven by one Mr.Manikandan. While proceeding in east west direction opposite to Apollo Pharmacy on K.H.Road, Somasundaram 3rd street junction, Ayanavaram, Chennai, a bus belonging to the respondent corporation came in a rash and



negligent manner in the same direction and dashed against the motorcycle from behind, both the rider and pillion rider fell down, the bus ran over them and both of them died on the spot. At the time of the accident, the deceased was working as a mason and was earning a sum of Rs.700 per day. As he was the sole breadwinner of the family, the appellants/claimants being the parents and unmarried sisters claiming a sum of Rs.30,00,000/- as compensation, filed the claim petition before the Tribunal.

3. The respondent transport corporation contested the claim petition on the ground that the accident had taken place due to the rash and negligent driving of the two wheeler, while the bus was moving slowly and carefully the driver of the motorcycle came at a high speed and while overtaking the bus dashed against the front left side of the bus and fell in a pit on the road side along with the pillion rider and sustained injuries. Therefore there was no negligence on the part of the driver of the bus. That apart, the respondent has also stated that the compensation claimed by the appellants/claimants are highly speculative and excessive.

4. Two claim petitions have been filed by the LRs of the rider and pillion rider, a common trial was conducted. In order to prove the case the claimants examined three witnesses as P.Ws.1 to 3 and the marked as many as twelve documents as Exs.P1 to P12. On the side of the respondent the driver of the bus was examined as R.W.1 and no document was marked.

5. The Tribunal after considering the materials available on record, came to the conclusion that the accident had taken place due to the rash and negligent driving of the driver of the transport corporation bus and therefore respondent transport corporation is liable to pay the compensation. In respect of quantum of compensation, the Tribunal fixed the notional monthly income as Rs.8,000/- and arrived at Rs.96,000/- (Rs.8,000 x 12) as annual income. The Tribunal further added 40% towards future prospectus and arrived at Rs.1,34,400/- (Rs.96,000x40%) as the annual income. After deducting 50% towards his personal expenses arrived at the notional annual income at Rs.67,200/- (Rs.1,34,400 - 50%). Applying multiplier of 18, arrived at the loss of dependency at Rs.12,09,600/- (Rs.67,200 x 18). Further, the Tribunal has awarded a sum of Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses; Rs.2,50,000/- towards loss of love and affection; Rs.5,000/- towards transportation expenses. Thus, the Tribunal arrived at a total compensation of Rs.14,94,600/-. Not satisfied with the said compensation awarded by the Tribunal, the appellants/claimants seeking enhancement of compensation have filed the present appeal before this Court.

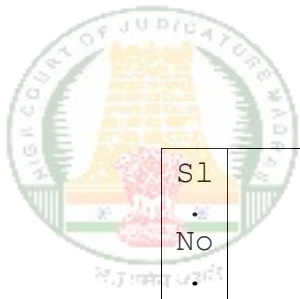


6. Heard the learned counsel on either side and perused the records carefully.

7. The learned counsel appearing for the appellants/claimants would submit that at the time of the accident, the deceased was 20 years old and he was a mason and easily he would get Rs.700/- per day. However, the Tribunal fixed the notional monthly income at only Rs.8,000/-. There is no dispute with regard to the fact that the deceased was working as a mason. A mason will easily get a sum of Rs.500/- per day as salary and even assuming he had worked for 20 days a month, he will easily get a sum of Rs.10,000/- as his monthly income. As per the guidelines issued by the Hon'ble Supreme Court in National Insurance Company Limited vs. Pranay Sethi and Ors reported in (2017) 16 SCC 680, 40% of his monthly income should be added towards future prospects, which comes to Rs.14,000/- per month. Since the deceased being a bachelor, 50% of the income should be deducted towards his personal expenses. Hence, the notional monthly income of the deceased would be Rs.7,000/- (14,000 x 50%) per month, and applying multiplier of 18, the loss of dependency will be Rs.15,12,000/- (Rs.7,000 x 12 x 18) instead of Rs.12,09,600/- awarded by the Tribunal. That apart, the parents / appellants 1 and 2 are entitled to a sum of Rs.80,000/- towards filial consortium and a sum of Rs.25,000/- is awarded towards loss of love and affection to the appellants 3 and 4 /sisters. In respect of other heads are concerned, the Tribunal has rightly granted compensation and there is no need to interfere with the same.

8. In view of the above, the compensation awarded by the Tribunal is modified as follows:

Sl No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced (Rs.)
1.	Loss of dependency	12,09,600	15,12,000	Enhanced
2.	Loss of estate	15,000	15,000	Confirmed
3.	Funeral expenses	15,000	15,000	Confirmed
4.	Loss of love and affection	2,50,000	25,000	Reduced
5.	Transportation expenses	5,000	5,000	Confirmed
6.	Filial consortium	-	80,000	Granted



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Sl No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced (Rs.)
	Total	14,94,600	16,52,000	Enhanced by Rs.1,57,400/-

9. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.14,94,600/- awarded by the Tribunal is hereby enhanced to Rs.16,52,000/- together with interest at the rate of 7.5 % per annum from the date of claim petition till the date of deposit. 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 six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.6922 of 2017, on the file of the Motor Accident Claims Tribunal, IV Judge, Small Causes Court, Chennai. On such deposit of the compensation amount, the appellants/claimants are entitled to share the amount proportionately as granted by the Tribunal. The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
IV Judge, Small Causes Court, Chennai.

2. The Section Officer,
VR Section, High Court, Madras.

+1 CC to Mr.S. Ravi Kumar, advocate sr 38957

C.M.A.No.1599 of 2020

LN(CO)
SP(03/09/2021)