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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2962 of 2014

1.Nagarathinam
2.Alamelu
3.Elumalai (Deceased)
4.Perumal

.. Appellants/Petitioners

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Anna Salai, Chennai-2.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.02.2014, made in M.C.O.P. No.2008 of 2010, on the file of the VI Small Causes Court, (Motor Accident Claims Tribunal), Madras.

For Appellants : Mr. T.G. Ravichandrran

For Respondent : Mr. K.J. Sivakumar

J U D G M E N T

This matter is heard through "Video Conferencing".

This Civil Miscellaneous Appeal has been filed for enhancement of the compensation granted by the Tribunal by the award dated 07.02.2014, made in M.C.O.P. No.2008 of 2010, on the file of the VI Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellants filed M.C.O.P. No.2008 of 2010, on the file of the VI Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.9,00,000/- as compensation for the death of Jaganathan who died in the accident that took place on 21.04.2009.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Bus belonging to



the respondent-Transport Corporation and directed the respondent to pay a sum of Rs.4,10,000/- as compensation to the appellants.

4. Not being satisfied with the amounts awarded by the Tribunal by the common award dated 07.02.2014, made in M.C.O.P. No.2008 of 2010, the appellants have come out with the present appeal.

5. Though the appellants have raised various grounds with regard to enhancement of compensation, at the time of arguments, the learned counsel appearing for the appellants restricted his arguments with regard to deduction of personal expenses of the deceased. The learned counsel for the appellants contended that the Tribunal erroneously deducted 50% towards personal expenses of the deceased, as against $1/3^{\text{rd}}$ since the appellants are wife and children of the deceased and prayed for enhancement of compensation granted towards loss of dependency.

6. Mr. K. J. Sivakumar, learned counsel appearing for the respondent-Transport Corporation made submissions in support of the award passed by the Tribunal and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellants as well as the respondent-Transport Corporation and perused the materials available on record.

8. From the materials on record, it is seen that it is the contention of the appellants that the deceased was working as a Senior Carpenter and Incharger at M/s. Dinesh and Co. and was earning a sum of Rs.12,000/- per month. The Tribunal considering the evidences let in by the appellants to prove the income and avocation of the deceased, in the absence of any contra evidence to disprove the same, rightly fixed a sum of Rs.12,000/- per month as income of the deceased. The deceased was aged 79 years at the time of accident. There are three dependents of the deceased. The Tribunal has taken into consideration only the 1st appellant who is wife of the deceased and deducted 50% towards personal expenses of the deceased, as against $1/3^{\text{rd}}$. It is well settled that major children who are married will also be dependent of the deceased. Hence, deducting $1/3^{\text{rd}}$ towards personal expenses of the deceased and applying the multiplier '5', the amount granted by the Tribunal towards loss of dependency is modified to Rs.4,80,000/- [Rs.12,000/- x 12 x 5 x $2/3$]. The amounts granted by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	3,60,000/-	4,80,000/-	Enhanced
2.	Loss of consortium	10,000/-	10,000/-	Confirmed
3.	Loss of love and affection & mental agony	10,000/-	10,000/-	Confirmed
4.	Funeral expenses	25,000/-	25,000/-	Confirmed
5.	Loss of estate	5,000/-	5,000/-	Confirmed
	Total	4,10,000/-	5,30,000/-	Enhanced by Rs.1,20,000/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.4,10,000/- is enhanced to Rs.5,30,000/- along with 7.5% interest per annum from the date of petition till the date of deposit. The respondent-Transport Corporation is directed to deposit the award amount, now determined by this Court, along with interest and costs, less the amount already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2008 of 2010. On such deposit, the appellants are permitted to withdraw their share of the award amount along with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. Pending claim petition, the 3rd appellant died. Hence, the legal heirs of the 3rd appellant are permitted to withdraw the share of the deceased 3rd appellant, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(Audit)

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Sub Assistant Registrar



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1.The VI Judge,
Small Causes Court,
(Motor Accident Claims Tribunal),
Chennai.

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

+1cc to Mr.T.G.Ravichandrran , Advocate, S.R.No.39015

C.M.A.No.2962 of 2014

VBA (CO)
CB(26/08/2021)