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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.3002 of 2014

1.Malayandi
2.Ayyanar
3.Ayyammal

... Appellants/Claimants

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Chennai.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the common judgment and decree dated 22.08.2014, made in M.C.O.P. No.3085 of 2010, on the file of the III Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellants : Mr. L.P. Shanmuga Sundaram

For Respondent : Mr. K. Moorthy

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 common judgment and decree dated 22.08.2014, made in M.C.O.P. No.3085 of 2010, on the file of the III Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

2.The appellants/claimants filed M.C.O.P. No.3085 of 2010, on the file of the III Small Causes Court, (Motor Accident Claims Tribunal), Chennai, claiming a sum of Rs.10,00,000/- as compensation for the death of Karuppaammal who died in the accident that took place on 14.08.2010.



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.1,65,000/- as compensation to the appellants.

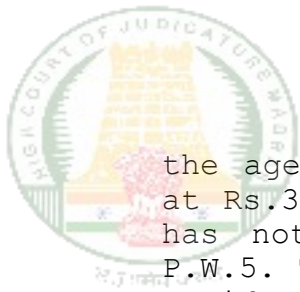
4.Not being satisfied with the compensation granted by the Tribunal by the common award dated 22.08.2014, made in M.C.O.P. No.3085 of 2010, the appellants have come out with the present Appeal.

5.The learned counsel appearing for the appellants contended that the deceased was doing House Keeping work at Vision Point Optical and was earning a sum of Rs.8,000/- per month. The appellants examined the Proprietor of Vision Point Optical as P.W.5 and marked salary certificate as Ex.P19 and proved the avocation and income of the deceased. The Tribunal without giving any reason, erroneously fixed meagre sum of Rs.3,000/- per month as notional income of the deceased. The learned counsel appearing for the appellant further contended that apart from working as House Keeper, the deceased mother of the appellants discharged her work at home for her children and the same cannot be calculated in terms of money. The compensation awarded by the Tribunal for loss of love and affection is meagre. The Tribunal has not awarded any amount for loss of estate. The total compensation awarded by the Tribunal is meagre and prayed for allowing the appeal.

6.Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the deceased was aged 70 years at the time of accident. The Tribunal considering the age and nature of work done by the deceased, fixed her monthly income at Rs.3,000/- per month, which is not meagre. The appellants are major and they are not dependents on the income of the deceased and hence, they are not entitled for any enhancement 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.

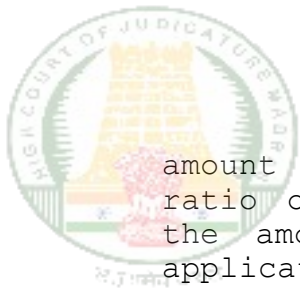
8.From the materials on record, it is seen that it is the contention of the appellants that the deceased was working as a House Keeper at Vision Point Optical and was earning a sum of Rs.8,000/- per month. They proved the same by examining P.W.5 - Proprietor of Vision Point Optical and marked Salary Certificate as Ex.P19 through him. The Tribunal has not given any reason for not considering the evidence of P.W.5 and Ex.P19 and considered



the age of the deceased to fix the income of the deceased only at Rs.3,000/- per month. The same is erroneous. The respondent has not disproved the genuineness of Ex.P19 and evidence of P.W.5. The accident is of the year 2010. Considering the date of accident, evidence of P.W.5 and Ex.P19, a sum of Rs.8,000/- is fixed as monthly income of the deceased. There are three dependents 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.3,20,000/- [$\text{Rs.8,000/-} \times 12 \times 5 \times 2/3$]. The amount awarded by the Tribunal towards loss of love and affection is meagre. The appellants are each entitled to a sum of Rs.30,000/- towards loss of love and affection. The Tribunal failed to award any amount towards loss of estate. The appellants are entitled to a sum of Rs.15,000/- towards loss of estate. The amount awarded by the Tribunal towards funeral expenses is just and reasonable and hence, the same is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of pecuniary benefits	1,20,000/-	3,20,000/-	Enhanced
2.	Loss of love and affection	30,000/-	90,000/-	Enhanced
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of estate	-	15,000/-	Granted
	Total	1,65,000/-	4,40,000/-	Enhanced by Rs.2,75,000/-

9. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.1,65,000/- is enhanced to Rs.4,40,000/- 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.3085 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. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsa
To

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

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

+1cc to Mr.S.S.Swaminathan, Advocate Sr.39041
+1cc to Mr.K.Moorthy, Advocate Sr.39492

C.M.A.No.3002 of 2014

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srg 26/08/2021