IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4086 of 2019

M.Ravi @ Ravikumar (died)

1.Sangeetha
W/o.Late Ravikumar

2.Satheshkumar
S/o.Late Ravikumar

3.Harish
S/o.Late Ravikumar

Muthusamy (Died)

4.Rajamani
W/o.Late Muthusamy ... Appellants

Vs.

Managing Director,
Tamil Nadu State Government
Transport Corporation,
Salem. ... Respondent

Prayer: Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment dated 26.10.2009 passed in M.C.O.P.No.1439 of 2004 on the file of Motor Accident Claims Tribunal and Fast Track Court, Namakkal.

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For Appellants : Mr.C.Thangaraju

For Respondent : Mr.D.Raghu

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JUDGMENT

[Judgment of the Court was made by R.SUBBIAH, J]

[Heard through Video Conference]

Not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal and Fast Track Court, Namakkal, in and by its award dated 26.10.2009 passed in M.C.O.P.No.1439 of 2004, the present appeal has been filed seeking enhancement of compensation.

2. The brief facts, which are necessary to decide the issue are as follows:

Appellants/claimants are wife, two sons and mother of the deceased. On 24.07.2004 at about 6.50 p.m. while the deceased was proceeding on the Salem to Namakkal Main Road in his two wheeler, a bus bearing registration No.TN-27-N-1197, belonging to respondent Transport Corporation, came in a rash and negligent manner and dashed against the deceased as a result of which the deceased sustained grievous injuries. Despite treatment, the deceased died. Appellants/claimants filed M.C.O.P.No.1439 of 2004 on the file of Motor Accident Claims Tribunal and Fast Track Court, Namakkal, seeking compensation in a sum of Rs.10,00,000/-.

3. Before Tribunal, on the side of appellants/claimants, two witnesses were examined and nine exhibits were marked. One witness was examined on the side of respondent Transport Corporation and one exhibit was marked. On appreciation of materials, the Tribunal, under judgment dated 26.10.2009, awarded a sum of Rs.4,23,500/- as compensation and the break up details are as follows:

Sl. No.	Amount awarded under the head	Amount (in Rs.)
1.	Medical expenses	3,14,812/-
2.	Loss of consortium	20,000/-
2.	Loss of love and affection	60,000/-
3.	Transport Expenses	10,000/-
4.	Funeral expenses	10,000/-
5.	Loss of Income (4,500*12*16/100)	8,640/-
	Total	4,23,452/-
	Rounded off to	4,23,500/-

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The said amount of Rs.4,23,500/- was directed to be paid along with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit. Seeking enhancement of compensation, the present appeal has been filed.

4. Heard learned counsel for appellants and learned counsel for respondent Transport Corporation.

5. Since the present appeal has been filed only seeking enhancement of compensation, the scope of the appeal becomes very narrow and therefore, this Court is not traversing into the aspect of 'rash and negligence'.

6. Learned counsel for appellants/claimants submits that the deceased was aged 39 at the time of accident, he was working as a driver and earning a sum of Rs.5,000/- p.m. To prove the avocation of the deceased, the wife of the deceased was examined as PW-1 and Ex.P9 - driving licence of the deceased was marked. However, without considering the same, the Tribunal has fixed the monthly income of the deceased only at Rs.4,500/-. Considering the cost of living at the time of accident, the Tribunal ought to have fixed the monthly income of the deceased at Rs.10,000/-. Learned counsel further submits that the amount awarded under the other heads is also on the lower side. Submitting as above, learned counsel prays for enhancement of compensation.

7. On the other hand, learned counsel for respondent Transport Corporation submits that since the accident took place in the year 2004, the Tribunal rightly has fixed the monthly income of the deceased at Rs.4,500/-. Further, the amount awarded under the other heads are also just and reasonable and no enhancement is required. Submitting as above, learned counsel prays for dismissal of the appeal.

8. This Court has considered the rival submissions and perused the entire materials on record.

9. On a careful perusal of the judgment and records, this Court finds that except marking of Ex.P9 - driving license of the deceased, no other documentary evidence has been marked to prove the avocation of the deceased. In the absence of tangible evidence, fixing of monthly income at Rs.10,000/- as claimed by appellants/claimants is unsustainable. At the same time, this Court considers it reasonable to fix the monthly income of the deceased at Rs.5,000/-. Further, considering the age of the deceased i.e. 39, at the time of accident, 40% of the amount is added towards future prospects and 1/4th is deducted towards personal expenses and the multiplier to be adopted in this case is '15'. Accordingly, the amount payable under the head 'loss of

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income' would be Rs.9,45,000/- [(5000+2000-1750)*12*15]. The body of the deceased was carried from Namakkal to Coimbatore. Hence, the compensation of Rs.10,000/- awarded towards transport expenses is hereby enhanced to Rs.20,000/-. Likewise, the amount awarded for funeral expenses is enhanced from Rs.10,000/- to Rs.30,000/- the amount awarded for loss of consortium is enhanced from Rs.20,000/- to Rs.40,000/-, amount awarded for loss of love and affection is enhanced from Rs.20,000/- to Rs.50,000/- to each of the sons and Rs.25,000/- to the mother of the deceased. Though Ex.P6 series - medical bills comes to Rs. 3,33,442.01/-, the Tribunal has rejected two bills [Rs.7,910/- and Rs.10,720/-] since there was no revenue stamps on such bills. The rejection of two bills for the aforesaid reason cannot be acceptable and hence, the total sum of Rs.3,33,442.01/- is awarded towards medical expenses. This Court finds that no sum was awarded towards loss of estate and attendant charges. Therefore, a sum of Rs.15,000/- is awarded towards loss of estate and Rs.5,000/- is awarded towards attendant charges. Accordingly, the compensation payable would be :

Sl. No.	Amount awarded under the head	Amount (in Rs.)
1.	Loss of Income [(5000+2000-1750)*12*15].	9,45,000/-
2.	Medical expenses	3,33,442/-
3.	Loss of love and affection [50000+50000+25000]	1,25,000/-
4.	Loss of consortium	40,000/-
5.	Funeral expenses	30,000/-
6.	Transport Expenses	20,000/-
7.	Loss of Estate	15,000/-
8.	Attendant charges	5,000/-
	Total	15,13,442/-
	Rounded off to	15,14,000/-

In the result, the Civil Miscellaneous Appeal is partly allowed. The compensation awarded by the Tribunal is hereby enhanced to Rs.15,14,000/- (Rupees Fifteen Lakhs and Fourteen Thousand only). Respondent Transport Corporation is directed to deposit the enhanced compensation, less the amount already deposited, with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. First appellant/wife of the deceased is entitiled to a sum of Rs.8,14,000/- with interest, each of the appellants 3 and 4/sons of the deceased are

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entitiled to a sum of Rs.3,00,000/- with interest and fourth appellant/mother of the deceased is entitled to a sum of Rs.1,00,000/- with interest. On deposit being made by respondent Transport Corporation, appellants/claimants are entitled to withdraw their respective shares on due application. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm
To

The Motor Accident Claims Tribunal,
and Fast Track Court,
Namakkal.

C.M.A.No.4086 of 2019

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