

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2020

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.4067 of 2019

1.K.Dhakshinamurthy
2.Punithavathi

... Appellants

vs.

The Managing Director,
Tamil Nadu State Express Transport Corporation Limited,
Pallavan Salai,
Chennai.

... Respondent

Prayer:- The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.37 of 2011 dated 05.02.2013 on the file of the Motor Accident Claims Tribunal/Principal Subordinate Judge, Chengalpattu, Kancheepuram District.

For Appellants : Mr.M.Sivakumar

For Respondent : Mr.S.V.Vasanthakumar

J U D G M E N T

The appeal on hand is preferred against the judgment and decree dated 05.02.2013 passed in M.C.O.P.No.37 of 2011.

2. The claimants are the appellants herein and the appeal is filed seeking enhancement of compensation.

3. The accident occurred on 17.01.2011 at about 18.30 hrs on the Palar Bridge, on the Maduranthakam to Chennai, GST Road, Maduranthakam Taluk. The Padalam Police station registered a case in Crime No.36 of 2011 under Sections 279 and 304(A) IPC.

4. The deceased/DeepanKumar was riding a motor cycle bearing Registration No.TN-09 BC 7502 along with pillion rider Mr.Kumar from Pudupattu to Chennai on the mud portion of left

side of the Thindivanam-Chennai, G.S.T Road, duly observing traffic rules and regulations. A bus bearing Registration No.TN-01-N-6886 belongs to the State Express Transport Corporation was driven by the driver of the vehicle in a rash and negligent manner and dashed against the two wheeler. Therefore, both rider and pillion rider were thrown out from the vehicle. The deceased/DeepanKumar sustained grievous injuries all over the body and died on the spot. Thereafter, the claim petition was filed by the parents of the deceased and the Tribunal adjudicated the issues with reference to the documents and evidence produced by the respective parties. The Tribunal, based on FIR and the evidence, arrived at a conclusion that the driver of the Tamil Nadu State Express Transport Corporation is responsible for the accident and accordingly, he committed an act of negligence. Regarding the quantum of compensation, the Tribunal has awarded a sum of Rs.8,00,000/- as total compensation. Challenging the said award, the appeal is filed.

5. The learned counsel appearing on behalf of the appellants/claimants mainly contended that the claimants are entitled for future prospects, which has not been added in the award granted by the Tribunal. This apart, the deceased had passed Industrial Training Course in Government IIT. Therefore, the notional monthly income of Rs.4,500 fixed by the Tribunal is inadequate and less amount. The learned counsel for the appellant is of the opinion that the deceased was performing his job with skill as he passed Industrial Training Course in Government IIT. Therefore, the monthly income is to be enhanced and the future prospect is also to be added.

6. The learned counsel appearing on behalf of the respondent/Tamil Nadu State Express Transport Corporation Limited disputed the contention by stating that the Tribunal has considered all these factors and fixed the compensation in a reasonable manner. The deceased was aged about 14 years. Therefore, further enhancement need not be granted in the present appeal.

7. Considering the arguments, this Court is of the considered opinion that the factum regarding the accident was established by the claimants before the Tribunal and the negligence was also established against the driver of the respondent/Tamil Nadu State Express Transport Corporation. Regarding the quantum of compensation, this Court is of the considered opinion that the deceased was doing a skilled job as he was a technician and passed Industrial Training Course in Government IIT. Therefore, the notional monthly income of Rs.4,500/- is undoubtedly inadequate and the same is to be enhanced. The accident occurred during the year 2011 and

therefore, it would be appropriate that if the monthly income of the deceased is fixed at Rs.6,000/-. Accordingly, this Court is inclined to fix the monthly income of the deceased as Rs.6,000/-. As per the judgment of the Apex Court as well as the High Court in similar cases and considering the age of the deceased, the claimants are entitled for 40% future prospects which has to be added and accordingly, the appellants/claimants are entitled for enhancement of compensation as detailed hereunder:

(i) Loss of income	: Rs.9,07,200/-
(Rs.6000+40%=Rs.8,400X12X18 X1/2)	
(ii) Loss of love and affection	: Rs.80,000/-
Rs.40,000 X 2	
(iii) Funeral Expenses	: Rs.15,000/-
(iv) Loss of Estates	: Rs.15,000/-
(v) Transportation Expenses	: Rs.2,000/-
Total	: Rs.10,19,200/-

8. Thus, the total compensation of Rs.8,00,000/- awarded by the Motor Accident Claims Tribunal is enhanced to Rs.10,19,200/- and the appellants/claimants are entitled for interest at the rate of 7.5% per annum. Therefore, the respondent/Transport Corporation is directed to deposit the entire award amount with accrued interest within a period of twelve weeks from the date of receipt of a copy of this judgment and on such deposit, the appellants/claimants are permitted to withdraw the entire award amount by filing an appropriate application and the payments are to be made through RTGS.

9. In view of the enhancement made in the appeal, the judgment and decree dated 05.02.2013 passed in M.C.O.P.No.37 of 2011 on the file of the Motor Accident Claims Tribunal, Principal Sub-ordinate Judge, Chengalpattu, Kancheepuram District is modified and the Civil Miscellaneous Appeal stands allowed in part. No costs.

Sd/-

Asst.Registrar (AR I)

/true copy/

Sub Asst. Registrar

ssb

To

1.The Motor Accident Claims Tribunal,
Principal Subordinate Judge, Chengalpattu.
Kanchipuram District

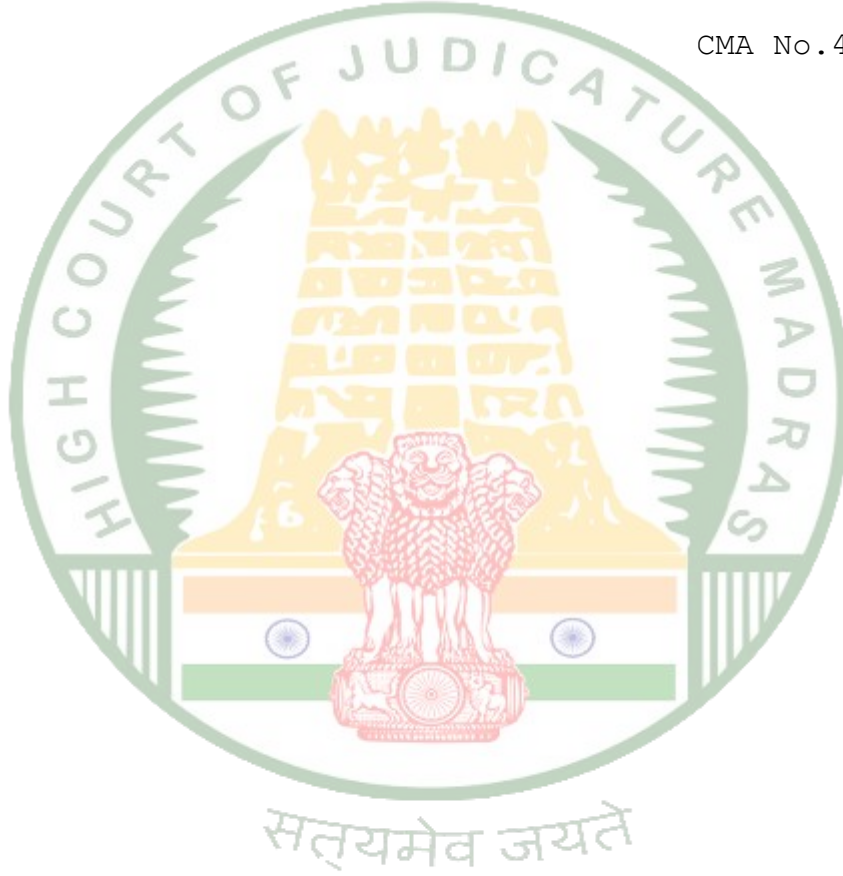
2.The Section Officer,
V.R Section,
High Court, Madras.

1 cc to M/s.C. Prabakaran, Advocate, Sr. 29553

1 cc to M/s.S.V. Vasantha Kumar, Advocate, Sr. 29612

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