

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM:

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN

C.M.A.No.1660 of 2017

1.M.Kanaga
2.Murugesan

... Appellants /Petitioners

Vs.

Metropolitan Transport Corporation Limited,
Rep. by its Managing Director,
Pallavan Salai,
Chennai - 600 002.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 23.11.2016 made in M.A.C.T.O.P.No.1920 of 2015 on the file of the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai.

For Appellants : Mr.K.Suryanarayanan

For Respondent : Mr.S.S.Swaminathan

J U D G M E N T

The Civil Miscellaneous Appeal is filed praying for enhancement of the compensation awarded by the Tribunal in the award dated 23.11.2016 made in M.A.C.T.O.P.No.1920 of 2015 on the file of the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai.

2.The brief facts of the case are as follows:

On 07.02.2015, at about 16.45 hours, the deceased Kamal was riding his motorcycle, bearing Registration No.TN 22 BR 0133 on the Velacherry Main Road, near SIVET College. At that time, the bus belonging to the respondent Transport Corporation, bearing Registration No. TN 01 N 8653 came in a rash and negligent manner and dashed against the deceased's motorcycle, as a result of which, the deceased sustained fatal injuries and died. The parents of the deceased filed a claim petition before the Tribunal, claiming a sum of Rs.25,00,000/- as compensation. Taking note of the materials and evidence available on record, the Tribunal has held that the accident had occurred only due to the rash and negligent driving of

the driver of the bus belonging to the respondent / Transport Corporation and directed the respondent/Transport Corporation to pay a sum of Rs.12,09,000/- with interest at the rate of 7.5% per annum from the date of petition, as compensation to the appellants. Aggrieved by the same, the appellants have come out with the present appeal seeking enhancement of compensation.

3.The learned counsel appearing for the appellants has submitted that the Tribunal has erroneously fixed the monthly income of the deceased at Rs.7,000/- while arriving at the compensation towards loss of dependency, which is very much on the lower side. It is also submitted that the amounts awarded under other heads are meagre and hence the same needs significant enhancement.

4.Per contra, the learned counsel appearing for the respondent/Transport Corporation has contended that the Tribunal, after considering all the materials available on record in a proper perspective, has awarded the compensation, which is just, fair and reasonable. It is also submitted that the appellants have not made out any case for enhancement of compensation.

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

6.It was claimed by the claimants before the Tribunal that the deceased was working as a Car Driver cum Water Can Supplier and was earning a sum of Rs.25,000/- per month. To prove the avocation and income of the deceased, the appellants have not filed any documents. In the absence of any material evidence, the Tribunal fixed a sum of Rs.7,000/- per month as the notional income of the deceased, added 50% of the amount towards future prospects and out of the resultant amount, deducted 50% towards personal expenses of the deceased, adopted 18 multiplier and awarded a sum of Rs.11,34,000/- towards loss of dependency which is on the lower side. The accident occurred in the year 2015. Taking note of the year of accident, this Court is of the view that fixing a sum of Rs.10,000/- towards notional income, would be proper. Taking into consideration the judgment of the Hon'ble Supreme Court, reported in 2017 (2) TNMAC 609 (SC) (National Insurance Company v. Pranay Sethi & others), this Court is of the view that the appellants are entitled to 40% towards future prospects and not 50% as fixed by the Tribunal. The multiplier of 18 adopted by the Tribunal is the correct multiplier. Thus, if a sum of Rs.10,000/- is fixed as notional income per month, 40% of the amount is added towards future prospects and 50% is deducted from the resultant amount and by adopting 18

multiplier, the loss of dependency works out to Rs.15,12,000/- ([Rs.10,000 + 4,000] x 12 x 18 x 1/2). Accordingly, the compensation awarded by the Tribunal towards loss of dependency stands modified to Rs.15,12,000/-. The amount awarded by the Tribunal towards funeral expenses is excessive and it would be appropriate to reduce the same to Rs.15,000/-. The Tribunal has not awarded any amount towards loss of estate and hence, a sum of Rs.15,000/- is now awarded under this head. The amount awarded by the Tribunal towards loss of love and affection at Rs.50,000/- (Rs.25,000/- to each of the claimants), is just and reasonable and hence the same is confirmed.

7.The details of the modified compensation are as follows:

HEADS	AMOUNT (Rs.)
Loss of dependency	15,12,000/-
Funeral expenses	15,000/-
Loss of estate	15,000/-
Loss of love and affection	50,000/-

TOTAL.....	15,92,000/- =====

8.In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.12,09,000/- is hereby enhanced to Rs.15,92,000/- with interest at the rate of 7.5% per annum from the date of petition. No costs. The respondent/Transport Corporation is directed to deposit the modified amount of compensation, as ordered above, along with interest and costs, after deducting the amount if any, already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their respective shares as per the ratio of apportionment made by the Tribunal on making proper application. It is made clear that the appellants/claimants have to pay the appropriate Court fee, before receiving the awarded amount.

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Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mtl

To

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

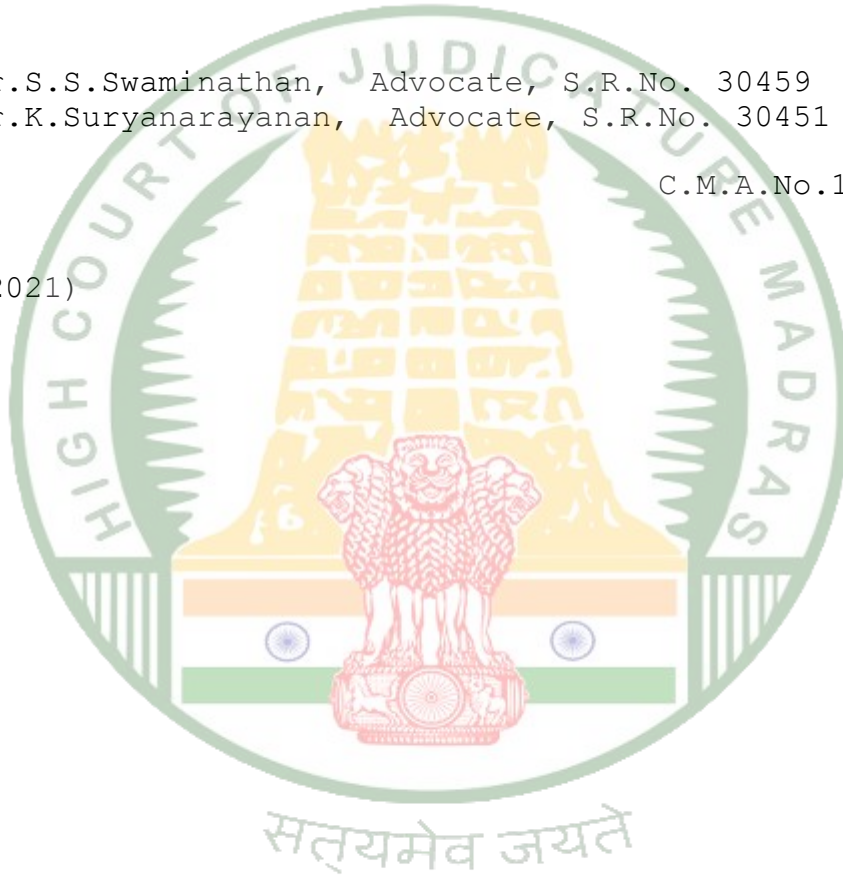
Copy To

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

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No. 30459
+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No. 30451

C.M.A.No.1660 of 2017

RR(CO)
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