

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2061 of 2017

1.Sivagami

2.Kalyani Appellants/Petitioners

Vs.

1.Loganathan

2.The Managing Director,
Tamilnadu State Transport Corporation,
Chennimalairoad,
Erode. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.02.2014 made in M.C.O.P. No. 805 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Dharapuram.

For Appellants : Mr.V.Regunathan

For R2 : Mr.K.J.Sivakumar

For R1 : No appearance

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 12.02.2014 made in M.C.O.P. No. 805 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Dharapuram.

2.The appellants are claimants in M.C.O.P. No. 805 of 2012 on the file of the Motor Accident Claims Tribunal, Sub Court, Dharapuram. The appellants filed the said claim petition claiming a sum of Rs.5,00,000/- as compensation for the death of one Periyasamy, who died in the accident that took place on 29.05.2012.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1st respondent/driver of the bus belonging to the 2nd respondent/Transport Corporation and directed the respondents to jointly and severally pay a sum of Rs.3,26,360/- as compensation to the appellants.

4.Not being satisfied with the quantum of the compensation awarded by the Tribunal, the appellants have come out with the present appeal, seeking enhancement of compensation.

5.The learned counsel appearing for the appellants/claimants contended that at the time of the accident the deceased was working as an agricultural coolie and was earning a sum of Rs.5,000/- per month. The Tribunal fixed a meagre sum of Rs.4,000/- per month as notional income of the deceased. The deceased was aged 60 years at the time of the accident. The Tribunal has not awarded any amount towards future prospects. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellants have not filed any documents to prove the avocation and income of the deceased. In the absence of any material evidence, the Tribunal has fixed Rs.4,000/- per month as notional income of the deceased which is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent/Transport Corporation and perused all the materials available on record.

8.It is the contention of the appellants that at the time of the accident the deceased was working as an agricultural coolie and was earning a sum of Rs.5,000/- per month. The appellants have failed to prove the said contention. In the absence of any material evidence with regard to avocation and income of the deceased, the Tribunal fixed a sum of Rs.4,000/- per month as notional income of the deceased. The accident is of the year 2012. The notional income fixed by the Tribunal is meagre and therefore a sum of Rs.5,000/- per month as claimed by appellants is fixed as notional income of the deceased. The deceased was aged 60 years at the time of accident. The Tribunal has not granted any enhancement towards future prospects. The appellants are entitled to 10% enhancement towards future prospects. Since there are two dependents, the Tribunal has

rightly deducted 1/3rd towards the personal expenses of the deceased. By applying multiplier '9', the amount granted by the Tribunal towards loss of income is modified to Rs.3,96,000/- [(Rs.5,000/- + 500 (Rs.5,000/- x 10%) x 12 x 9 x 2/3)]. A sum of Rs.30,000/- awarded by the Tribunal altogether towards loss of love & affection and loss of consortium is meagre and hence, a sum of Rs.40,000/- and Rs.20,000/- are granted towards loss of consortium to the 1st appellant and loss of love & affection to the 2nd appellant respectively. The amount awarded by the Tribunal towards funeral expenses is also meagre and hence, the same is enhanced to Rs.15,000/-. The Tribunal has not awarded any compensation towards loss of estate and therefore, a sum of Rs.15,000/- is granted towards loss of estate. The amount awarded by the Tribunal towards transportation is just and reasonable and hence, the same is hereby 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 income	2,88,360	3,96,000	Enhanced
2.	Loss of love & affection and loss of consortium	30,000	20,000 40,000	Enhanced
3.	Transportation	3,000	3,000	Confirmed
4.	Funeral expenses	5,000	15,000	Enhanced
5.	Loss of estate		15,000	Granted
	Total	Rs.3,26,360/-	Rs.4,89,000/-	Enhanced by Rs.1,62,640/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,26,360/- is hereby enhanced to Rs.4,89,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced

compensation. The 2nd respondent/Transport Corporation is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their respective share of the enhanced award amount on the basis of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Dharapuram.

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

+lcc to Mr.V.Ragunathan, Advocate Sr.7606
+lcc to Mr.K.J.Sivakumar, Advocate Sr.8242

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mr[co]
srg 26/08/2020

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