

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2532 of 2017

1.Rajiammal

2.Chinnadurai ... Appellants/Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport
Corporation (VPM Dvn-I) Ltd.,
3/137, Salamedu, Valudhareddy Post,
Villupuram - 605 602. ... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 18.12.2003 made in M.C.O.P.No.4932 of 2001 on the file of the Motor Accident Claims Tribunal, Chief Judge Small Causes Court, Chennai.

For Appellants : Mr.Y.Jayanthi Bhaskar
for M/s.J.Mahanlingam

For Respondent : Mr.K.J.Sivakumar

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 18.12.2003 made in M.C.O.P.No.4932 of 2001 on the file of the Motor Accident Claims Tribunal, Chief Judge Small Causes Court, Chennai.

2.The appellants are claimants in M.C.O.P.No.4932 of 2001 on the file of the Motor Accident Claims Tribunal, Chief Judge Small Causes Court, Chennai. They filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Elumalai, who died in the accident that took place on 14.10.2000.

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/Transport Corporation to pay a sum of Rs.5,21,914/- as compensation to the appellants.

4.Not being satisfied with the amounts 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 contended that the Tribunal erred in awarding a meagre sum of Rs.5,21,914/- instead of Rs.10,00,000/- as compensation to the appellants. The deceased was aged 26 years at the time of the accident. The Tribunal erred in applying multiplier 11 instead of applying multiplier 18, taking into consideration the age of the mother of the deceased. 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 respondent/Transport Corporation contended that the Tribunal considering Ex.P9-salary certificate, fixed the monthly income of the deceased as Rs.15,058/- including future prospects. The same is not meagre. The Tribunal after considering all the records in proper perspective, rightly awarded the compensation, 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 respondent/Transport Corporation and perused all the materials available on record.

8.From the materials available on record, it is seen that the appellants have contended that the deceased was employed in the military service and was earning a sum of Rs.5,058/- per month. They produced Ex.P4/salary certificate to prove the said contention. The Tribunal accepted the same and fixed a sum of Rs.15,058/- including future prospects as monthly income of the deceased. The deceased was aged 26 years at the time of the accident. The Tribunal taking into consideration the age of the mother of the deceased, applied multiplier '11'. As per the judgment of the Hon'ble Apex Court reported in National Insurance Company v. Pranay Sethi reported in 2017(2)TNMAC 609 (SC), the multiplier has to be applied taking into consideration the age of the deceased. Hence, the correct multiplier applicable is '17'. The deceased was a bachelor at the time of

accident. After deducting 50% towards personal expenses of the deceased, the amount granted by the Tribunal towards loss of dependency is modified to Rs.15,35,916/- [Rs.15,058/- x 12 x 17 x 1/2)]. The Tribunal has granted a sum of Rs.5,000/-, Rs.7,500 and Rs.5,000/- towards loss of estate, loss of love & affection and funeral expenses which are meagre and the same are enhanced to Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The amount granted by the Tribunal towards expectation of life is set aside.

9.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. 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	4,96,914	15,35,916	Enhanced
2.	Loss of expectation of life	7,500	-	Set aside
3.	Loss of estate	5,000	15,000	Enhanced
4.	Loss of love and affection	7,500	40,000	Enhanced
5.	Funeral expenses	5,000	15,000	Enhanced
	Total	Rs.5,21,914/-	Rs.16,05,916/-	Enhanced by Rs.10,84,002/-

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,21,914/- is hereby enhanced to Rs.16,05,916/- together with interest at the rate of 9% 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 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 twelve 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 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(CS VI)

//True Copy//

Sub Assistant Registrar

To

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

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

+1cc to Mr.K.J.Sivakumar, Advocate Sr.1277

+2cc to Mr.J.Mahalingam, Advocate Sr.2153

C.M.A.No.2532 of 2017

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