



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2020

CORAM:

THE HON'BLE MR. JUSTICE R.MAHADEVAN

C.M.A.No.269 of 2017

1. R.Sankar
2. S.Devi, W/o. Sankar ... Appellants / Claimants

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Illam,
Anna Salai, Chennai - 2. ... Respondent/ Respondent

Prayer:- Civil Miscellaneous Appeal under Section 173 of Motor Vehicles Act, against the decree and judgment dated 15.02.2011 made in M.C.O.P.No.980 of 2007 on the file of Motor Accidents Claims Tribunal, (Principal District Court) Tiruvallur.

For Appellants : Mr. K.Varadha Kamaraj

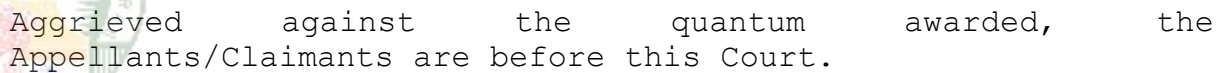
For Respondent : Mr. K.Murthy

J U D G M E N T

The parents of the deceased S.Dinesh Babu have filed M.C.O.P.No.980 of 2007 before the Motor Accidents Claims Tribunal, (Principal District Court), Tiruvallur, claiming a sum of Rs.5,00,000/- (Rupees Five Lakhs only) as compensation.

2. The case of the claimants is that on 07.07.2007 at about 9.20 a.m., the driver of the bus belonging to the respondent Transport Corporation had taken the bus without any signal at Chennai Munusamy Road, Nesappakam bus stand, due to which Dinesh Babu, who was trying to board the bus had fallen down and subsequently died. At the time of accident, Dinesh Babu was aged about 19, doing Electrician work and earning Rs.4,000/- per month, as salary.

3. The Tribunal, based on the materials available on record and the evidence, has observed that the accident had occurred due to the negligent driving of the driver of the bus and hence fixed the liability on the Transport Corporation and quantified the compensation at Rs.3,65,000/- (Rupees Three lakhs Sixty Five Thousand only) towards the loss of dependency and funeral expenses payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.



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9. In this connection, this Court is of the considered view that the Tribunal ought to have taken the age of the deceased to calculate the loss of dependency. As per Ex.P3-Post Mortem Certificate, the age of the deceased was 18 years. As per the judgment of the Hon'ble Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation Ltd. and another, reported in 2009 (2) TNMAC 1 (SC), for the age of 18, the correct multiplier to be taken is 18 and it is taken accordingly. As far as the monthly income of Rs.400/- per day is concerned, the Tribunal, in the absence of any documentary



proof, has awarded Rs.100/- per day. In the considered view of this Court, an electrician would be earning at least Rs.125 to Rs.140/- per day and hence the monthly income would be safely taken at Rs.4,000/- p.m. The deceased, being a bachelor, the deduction to be made towards his personal expenses is only at 50% and not 1/3rd as done by the Claims Tribunal. Hence the loss of dependency would be Rs.4,32,000/- (Rs.4,000/- x 12 x 18 (-) 50%).

10.The Tribunal has awarded only a sum of Rs.5,000/- towards funeral expenses which in the considered view of this Court is on the lower side and the same is enhanced to Rs.15,000/-. Towards loss of love and affection and loss of estate, the Tribunal has not awarded any amount. Hence sums of Rs.40,000/- and Rs.15,000/- are hereby awarded under those heads.

11.In the result, the Civil Miscellaneous Appeal preferred by the appellants / claimants is partly-allowed by enhancing the total amount of compensation from Rs.3,65,000/- to Rs.5,02,000/- with interest at the rate of 7.5% per annum from the date of claim petition. It is made clear that the claimants are not entitled for interest for the compensation amount, in respect of the period of delay in filing this appeal.

12.The respondent Transport Corporation shall deposit the modified amount of compensation, as ordered above, 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 being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Accounts of the claimants/appellants, within one week thereafter, through RTGS, in the ratio of apportionment as done by the Claims Tribunal. No costs.

13.It is made clear that the claimants have to pay the appropriate Court fee in order to receive the awarded amount.

Sd/-

Assistant Registrar (CO)

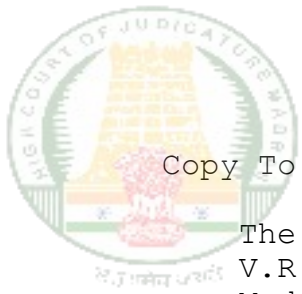
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Sub Assistant Registrar

Srk

To

1. The Motor Accidents Claim Tribunal,
Principal District Court,
Tiruvallur.



Copy To

The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104. (2 Copies)

+1cc to Mr.Varadakamaraj, Advocate, S.R.No. 28728

+1cc to Mr.Moorthy, Advocate, S.R.No. 28438

C.M.A.No.269 of 2017

MG (CO)
GN (24/08/2021)