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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2769 of 2017

1.Muthukani
2.Manoharan

.. Appellants/Claimants

Vs.

The Metropolitan Transport Corporation Limited
Rep. by its Managing Director
Pallavan salai
Chennai-2.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.07.2014 made in M.C.O.P.No.2790 of 2010 on the file of Motor Accident Claims Tribunal, Small Causes Court No.III, Chennai.

For Appellants : Mr.S.Partheeban
For Respondent : Mr.S.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 30.07.2014 made in M.C.O.P.No.2790 of 2010 on the file of Motor Accident Claims Tribunal, Small Causes Court No.III, Chennai.

2.The appellants are claimants in M.C.O.P.No.2790 of 2010 on the file of Motor Accident Claims Tribunal, Small Causes Court No.III, Chennai. They filed the said claim petition claiming a sum of Rs.6,00,000/- as compensation for the death of one David, who died in the accident that took place on 21.11.2006.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the bus belonging to the respondent/Transport Corporation and directed the respondent to pay a sum of Rs.3,45,000/- 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.



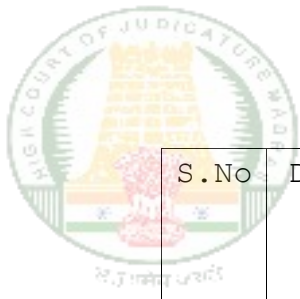
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5.The learned counsel appearing for the appellants/claimants contended that the Tribunal has fixed only a sum of Rs.15,000/- per annum as income of the deceased and has not granted any enhancement towards future prospects. The deceased being a student after completion of higher studies in future, could have got decent job with good salary and would have contributed maintenance of the family. The Tribunal ought to have fixed monthly income of the deceased instead of fixing Rs.15,000/- as annual income and deducted 50% towards personal expenses. 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 accident has occurred in the year 2006 and therefore, the income fixed by the Tribunal is not meagre. The compensation awarded by the Tribunal towards loss of love & affection and funeral expenses are excessive. 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 respondent and perused all the materials available on record.

8.It is the contention of the appellants that the deceased was aged 16 years and was a student studying XI standard at the time of accident. The Tribunal has fixed a sum of Rs.15,000/- per annum as income of the deceased as he is a non-earning member. The contention of the appellants is that the deceased would have studied higher studies in the future and earned more income. The Hon'ble Apex Court taking into consideration the passage of time from the date of enactment of II Schedule and the raise in cost of living, has fixed a sum of Rs.30,000/- per annum as the notional income of non-earning member and applied the multiplier '15'. This Court in some of the cases fixed a sum of Rs.45,000/- per annum for the minor. Considering the raise in cost of living, the notional income of the deceased in the present case is fixed at Rs.30,000/- per annum and applying the multiplier '15', a sum of Rs.4,50,000/- is awarded towards loss of dependency. A sum of Rs.1,00,000/- and Rs.20,000/- awarded by the Tribunal towards loss of love & affection and funeral expenses respectively are excessive and hence, the same are hereby reduced to Rs.80,000/- i.e., Rs.40,000/- each to the appellants and Rs.15,000/- respectively. The Tribunal has not awarded any compensation towards loss of estate and hence, a sum of Rs.15,000/- is awarded towards loss of estate. Thus the compensation awarded by the Tribunal is modified as follows:



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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	2,25,000	4,50,000	Enhanced
2.	Funeral expenses	20,000	15,000	Reduced
3.	Loss of love and affection	1,00,000	80,000	Reduced
4.	Loss of estate	-	15,000	Granted
	Total	3,45,000	5,60,000	Enhanced by Rs.2,15,000 /-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,45,000/- is hereby enhanced to Rs.5,60,000/- 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 1st appellant being mother of the deceased is entitled to a sum of Rs.4,07,500/- and the 2nd appellant being father of the deceased is entitled to a sum of Rs.1,52,500/- as 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/claimants are permitted to withdraw their respective share of the award amount now determined by this Court along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar



To

1.III Judge

The Motor Accident Claims Tribunal
Small Causes Court, Chennai.

2.The Section Officer

V.R.Section

High Court, Chennai.

+1 CC to Mr.S.Partheeban, Advocate sr 4602.

+1 CC to Mr.S.Sivakumar, Advocate sr 4631.

C.M.A.No.2769 of 2017

VBA(CO)

SP(02/09/2020)