

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3191 of 2017

1.Devaki

2.Suresh Kumar

3.Subbulakshmi ... Appellants /Petitioners

Vs.

The Managing Director
Divisional Office
North West Karnataka Road
Transport Corporation
Haveri, Karnataka State-581 110.

.. Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.08.2017 made in M.C.O.P.No.1015 of 2014 on the file of Motor Accident Claims Tribunal, Principal District Court, Namakkal.

For Appellants : Ms.M.Amuthini
for Mr.R.Nalliyappan

For Respondent : Mr.Thiyagarajan

J U D G M E N T
सत्यमेव जयते

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 05.08.2017 made in M.C.O.P.No.1015 of 2014 on the file of Motor Accident Claims Tribunal, Principal District Court, Namakkal.

2.The appellants are claimants in M.C.O.P.No.1015 of 2014 on the file of Motor Accident Claims Tribunal, Principal District Court, Namakkal. They filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Veerappan, who died in the accident that took place on

10.06.2014.

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.4,46,000/- 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.

5.The learned counsel appearing for the appellants/claimants contended that the deceased was aged 57 years at the time of accident and was earning a sum of Rs.12,000/- per month by working as lorry driver. The Tribunal without considering the same, fixed only a meagre sum of Rs.6,000/- per month as notional income of the deceased and has not granted any enhancement towards future prospects. The multiplier '9' applied by the Tribunal is not correct. 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 in the absence of any material evidence to prove the monthly income of the deceased, the Tribunal has rightly fixed a sum of Rs.6,000/- per month as notional income of the deceased. The Tribunal after considering the materials available on record, has awarded just compensation. 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 57 years at the time of accident and was earning a sum of Rs.12,000/- per month by working as lorry driver. Though the appellants have marked Ex.P4/driving license of the deceased, they have failed to substantiate their contention that the deceased was earning a sum of Rs.12,000/- per month. In the absence of any material evidence to prove the income of the deceased, the Tribunal fixed a sum of Rs.6,000/- per month as notional income of the deceased. The accident is of the year 2014 and the notional income fixed by the Tribunal is meagre.

Hence, a sum of Rs.8,000/- per month is fixed as notional income of the deceased. The Tribunal awarded compensation towards loss of dependency by applying multiplier '9' and deducting 1/3rd towards personal expenses and the same are proper. The Tribunal has not granted any enhancement towards future prospects. The appellants are entitled to 10% enhancement towards future prospects. Thus, the amount awarded by the Tribunal towards loss of dependency is enhanced to Rs.6,33,600/- (Rs.8,000/- + 800 [Rs.8,000/- X 10%] X 12 X 9 X 2/3). The amounts awarded by the Tribunal towards loss of estate, funeral expenses, loss of love & affection, transportation and loss of consortium are meagre and the same are hereby enhanced to Rs.15,000/-, Rs.15,000/-, Rs.40,000/- each to the appellants 2 and 3, Rs.10,000/- and Rs.40,000/- respectively. 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 or reduced
1.	Loss of dependency	4,32,000	6,33,600	Enhanced
2.	Loss of estate	2,000	15,000	Enhanced
3.	Funeral expenses	5,000	15,000	Enhanced
4.	Loss of love and affection	2,000	80,000	Enhanced
5.	Transportation	2,000	10,000	Enhanced
6.	Loss of consortium	3,000	40,000	Enhanced
	Total	4,46,000	7,93,600	Enhanced by Rs.3,47,600/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,46,000/- is hereby enhanced to Rs.7,93,600/- 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 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 as per the apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.Principal District Judge
The Motor Accident Claims Tribunal
Namakkal.

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

+1cc to Mr.R.Nalliyappan, Advocate SR.9422

+1cc to Mr.T.Thiyagarajan, Advocate SR.10232

C.M.A.No.3191 of 2017

PVS (CO)
CB(25/09/2020)

सत्यमेव जयते

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