

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.713 of 2017

1.Chennammal
2.Govindan

.. Appellants/Petitioners

Vs.

The Managing Director,
Tamilnadu State Transport Corporation Limited,
Having their office at Salamedu,
Villupuram.

.. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.11.2012 made in M.A.C.T.O.P.No.292 of 2010 on the file of the Motor Accident Claims Tribunal, District Court, Thiruvannamalai.

For Appellants : Ms.A.Subadra
for Ms.M.Malar
For Respondent : Mr.R.Annamalai

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 05.11.2012 made in M.C.O.P.No.292 of 2010 on the file of the Motor Accident Claims Tribunal, District Court, Thiruvannamalai.

2.The appellants are the claimants in M.C.O.P.No.292 of 2010 on the file of the Motor Accident Claims Tribunal, District Court, Thiruvannamalai. They filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of one Raman, who died in the accident that took place on 05.02.2010.

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.2,25,000/-

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.

5. The learned counsel appearing for the appellants contended that at the time of accident, the deceased was working as an agriculturist and cattle broker and was earning a sum of Rs.10,000/- per month. The Tribunal without fixing the monthly income of the deceased, has awarded a consolidated sum of Rs.2,25,000/- as compensation, which is meagre. The Tribunal ought to have fixed a sum of Rs.10,000/- per month as notional income of the deceased and granted compensation. The deceased was aged 60 years at the time of accident and the Tribunal has not granted any enhancement towards future prospects and not awarded amounts under different heads as claimed by the appellants. In any event, the consolidated sum of Rs.2,25,000/- awarded by the Tribunal is meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that the appellants have not produced any material evidence to prove that the deceased was earning a sum of Rs.10,000/- per month. In the absence of any material evidence to prove the avocation and income of the deceased, the consolidated sum of Rs.2,25,000/- awarded by the Tribunal as compensation to the appellants is not meagre. The appellants are not entitled to any enhancement towards future prospects and the total compensation awarded by the Tribunal 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 for the appellants as well as the learned counsel appearing for the respondent-Transport Corporation and perused the entire materials on record.

8. It is the contention of the appellants that the deceased was working as an agriculturist and cattle broker and was earning a sum of Rs.10,000/- per month. They failed to prove their said contention. From the award passed by the Tribunal, it is seen that the Tribunal considering the contentions of the appellants, awarded a consolidated sum of Rs.2,25,000/- as compensation to the appellants, which is erroneous and the same is set aside. Considering the entire materials on record, a sum of Rs.6,500/- per month is fixed as notional income of the deceased. The deceased was aged 60 years at the time of accident as per Ex.P3/postmortem certificate. The appellants are entitled to 10% enhancement towards future prospects. The proper multiplier applicable is '9' as per the judgment of the Hon'ble

Apex Court reported in 2009 (2) TNMAC 1 SC Supreme Court, [Sarla Verma & others Vs. Delhi Transport Corporation & another]. There are two dependants of the deceased and therefore 1/3rd has to be deducted towards personal expenses of the deceased. In view of the above, the compensation towards loss of dependency comes to Rs.5,14,800/- {Rs.7,150/- [Rs.6,500/- + Rs.650/- (10% of Rs.6,500/-)] X 12 X 9 X 2/3}. The Tribunal has not awarded any amounts towards loss of consortium, funeral expenses and loss of estate. Therefore, a sum of Rs.40,000/- towards loss of consortium to the 1st appellant and Rs.15,000/- each towards funeral expenses and loss of estate are awarded by this Court. 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 dependency	-	5,14,800/-	Enhanced
2.	Loss of consortium	-	40,000/-	Granted
3.	Funeral expenses	-	15,000/-	Granted
4.	Loss of estate	-	15,000/-	Granted
5.	Consolidated compensation	2,25,000/-	-	Set aside
	Total	Rs.2,25,000/-	Rs.5,84,800/-	enhanced by Rs.3,59,800/-

9. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.2,25,000/- is hereby enhanced to Rs.5,84,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay the necessary Court fee if any, for the amount now enhanced by this Court. 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 to the credit of M.C.O.P.No.292 of 2010 on the file of the Motor Accident Claims Tribunal, District Court, Thiruvannamalai. On such deposit, the appellants are permitted to withdraw their respective share of the enhanced award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the

Tribunal. It is made clear that the appellants are not entitled for any interest for Rs.3,59,800/- the amount now enhanced by this Court, as per the order of this Court dated 16.02.2017 made in M.P.No.2 of 2014 in C.M.A.(SR).No.68794 of 2014. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

krk

To

1.The District Judge,
Motor Accident Claims Tribunal,
Thiruvannamalai.

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

+1cc to Mr.M.Malar, Advocate, S.R.No.2529

+1cc to Mr.R.Annamalai, Advocate, S.R.No. 2487

C.M.A.No.713 of 2017

RSK(CO)
GN(31/07/2020)

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