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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A.No.41 of 2020

1.Manavalan

2.Kamakshi

... Appellants/Petitioners

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
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 07.08.2019 made in M.C.O.P.No.5524 of 2016 on the file of the Motor Accident Claims Tribunal, Principal Special Judge, Special Court under E.C & NDPS Act, Chennai-104.

For Appellants : Mr.R.Nalliyappan

For Respondent : K.Moorthy

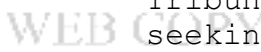
JUDGMENT

The matter is heard through "Video Conferencing/Hybrid mode".

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 07.08.2019 made in M.C.O.P.No.5524 of 2016 on the file of the Motor Accident Claims Tribunal, Principal Special Judge, Special Court under E.C & NDPS Act, Chennai-104.

2.The appellants are the claimants in M.C.O.P.No.5524 of 2016 on the file of the Motor Accident Claims Tribunal, Principal Special Judge, Special Court under E.C & NDPS Act, Chennai-104. They filed the above said claim petition, claiming a sum of Rs.22,00,000/- as compensation for the death of one Saradha, who died in the accident that took place on 08.08.2016.

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 and directed



4. Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

6.Per contra, K.Moorthy, learned counsel appearing for the sole respondent contended that the appellants failed to prove the avocation and income of the deceased. In the absence of any material evidence with regard to avocation and income, a sum of Rs.7,500/- per month fixed by the Tribunal as notional income of the deceased is not meagre. The Tribunal considering the entire materials on record, has awarded a sum of Rs.6,44,500/- as compensation to the appellants and the same is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8. The claimants are the husband and daughter of the deceased. It is the case of the appellants that at the time of accident the deceased aged 54 years and was earning a sum of Rs.500/- per day. Except oral evidence, the appellants have not filed any document to prove the avocation and income of the deceased. In the absence of any document with regard to avocation and income, the Tribunal considering the age and nature of work done by the deceased, fixed a sum of Rs.7,500/- per month as notional income of the deceased. The accident is of the year 2016. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.9,500/- per month as claimed by the appellants is fixed as notional income of the deceased. The deceased was aged 54 years at the time of accident as per the claim made in the claim petition. The Tribunal following the judgments of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC Supreme Court, [Sarla Verma & others Vs. Delhi Transport



Corporation & another] and 2017 (2) TNMAC 609 (SC), [National Insurance Company Limited Vs. Pranay Sethi and others], rightly applied multiplier '11' and granted 10% enhancement towards future prospects. There are two dependants of the deceased and the Tribunal has rightly deducted 50% towards personal expenses of the deceased. Thus, by fixing Rs.9,500/- per month as notional income of the deceased, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.6,89,700/- {Rs.10,450/- [Rs.9,500/- + Rs.950/- (10% of Rs.9,500/-)] X 12 X 11 X 1/2}. The Tribunal has not awarded any amount towards loss of estate. This Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. 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	5,44,500/-	6,89,700/-	Enhanced
2.	Loss of estate	-	10,000/-	Granted
3.	Funeral expenses	20,000/-	20,000/-	Confirmed
4.	Loss of consortium	40,000/-	40,000/-	Confirmed
5	Loss of love & affection	40,000/-	40,000/-	Confirmed
	Total	Rs.6,44,500/-	Rs.7,99,700/-	Enhanced by Rs.1,55,200/-

In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,44,500/- is hereby enhanced to Rs.7,99,700/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The sole respondent-Transport Corporation is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.5524 of 2016 on the file of the Motor Accident Claims Tribunal, Principal Special Judge, Special Court under E.C & NDPS Act, Chennai-104. On such deposit, the appellants are permitted to withdraw their respective share of the 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. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gbi
To

1.The Principal Special Judge,
Special Court under E.C & NDPS Act,
Motor Accident Claims Tribunal,
Chennai-104.

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

+lcc to Mr.K.Moorthy, Advocate Sr.36500

C.M.A.No.41 of 2020

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srg 12/11/2021