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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

C.M.A NO.191 OF 2011

AND

M.P NO.1 OF 2011

Suriakandhiammal ...Appellant / 5th Respondent

..Vs..

1.Emimal Jabajothi ...1st Respondent / 1st Petitioner

2.M.Abishek (minor)
minor rep.by his mother,
next friend & natural guardian R1
...2nd Respondent / 2nd Petitioner

3.Kalaivanan-Driver
Kumbakonam Depot
TNSTC

4.The Branch Manager
T.N.S.T. Corporation
Kumbakonam Depot.

5.Annadurai

6.The Divisional Manager
N.I.Co., Ltd.,
Shriram Site Office
No.21, Prakasham Road
T.Nagar, Chennai-600 017. ...Respondents / Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 01.06.2010 made in M.C.O.P.No.581 of 2006 on the file of the Principal District Judge, (Motor Accidents Claims Tribunal), Vellore.

For Appellant : Mr.S.P.Yuvaraj

For Respondents : Mr.V.Jeevagiridharan for R1 & R2
Mr.D.Venkatachalam for R4
Mr.J.Chandran for R6
RR3, 5 No appearance



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JUDGMENT

The instant appeal has been filed by the appellant/5th respondent seeking for enhancement of her share allotted by the Tribunal.

2. The respondents 1 & 2/claimants have filed a claim petition before the Tribunal in MCOP No.581 of 2006 seeking compensation amount for the death of the husband of the 1st respondent due to the accident that took place on 10.06.2005. After elaborate discussions and considering the oral and documentary evidence, the Tribunal has awarded a sum of Rs.5,67,0000/- to the claimants/1st & 2nd respondents and the appellant/5th respondent and from the said total amount, proportionate share has been allotted to the appellant and the respondents 1 and 2.

3. The learned counsel for the appellant would submit that the Tribunal has allotted a sum of Rs.67,000/- towards the proportionate share of the appellant/5th respondent. Unsatisfied with the allotment of such share, the instant appeal has been filed before this Court. The learned counsel for the appellant would further submit that the appellant is the dependent on the income of the deceased son. Therefore, he seeks an additional amount to be allotted to the appellant.

4. The learned counsel for the the respondents 1 & 2 would submit that the Tribunal has rightly allotted the share to the appellant as well as the respondents 1 & 2. Therefore, except the share allotted by the Tribunal, the appellant is not entitled for any additional share amount.

5. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.

6. At the time of accident, the appellant was aged 70 yeas and at present, she is 84 years and she need some support for her life time. Therefore, proportionate share of Rs.67,000/- allotted to the appellant by the Tribunal is not correct and she requires some more additional amount to maintain her day-to-day affairs. In such circumstances, it is appropriate for this Court to give an additional amount to the appellant by enhancing a sum of Rs.1,00,000/- along with interest at the rate of 7.5% per annum, as far as her share is concerned. Insofar as the remaining amount of Rs.4,67,000/- is concerned, the 1st respondent/claimant is entitled to Rs.2,67,000/- and the 2nd respondent/minor claimant is entitled to Rs.2,00,000/- along with interest at the rate of 7.5% per annum. Therefore, in view of the above, the award passed by the Tribunal is modified to the aforesaid extent.



7. In fine, the Civil Miscellaneous Appeal is partly allowed to the aforesaid extent. No costs. On filing application by the appellant as well as the respondents 1 & 2/claimants before the Tribunal for withdrawing the said amount, the Tribunal shall consider and pass orders as early as possible in accordance with law. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Principal District Judge,
(Motor Accidents Claims Tribunal),
Vellore.

Copy To

The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

+1cc to M/s.D.Venkatachalam, Advocate, S.R.No.21717

+1cc to M/s.V.Jeevagiridharan, Advocate, S.R.No.21697

+1cc to M/s.S.P.Yuaraj, Advocate, S.R.No.21649

C.M.A No.191 of 2011
and
M.P No.1 of 2011

RP (CO)
RVM(08/10/2021)