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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.3880 of 2011

- 1.Karunakaran (died)
- 2.Kokila,
W/o Late. Karunakaran
- 3.Kalaivani,
D/o Late. Karunakaran
- 4.Sakthivelan,
S/o Late. Karunakaran

all residing at
No.63, Mariamman Koil Street,
Chinna Vellakuttai Post,
Vaniambadi Taluk,
Vellore District.

... Appellants

..VS..

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Division II, Bharathipuram,
Dharmapuri District.

... Respondent

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 19.07.2011 in M.C.O.P.No.600 of 2005, on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Tirupattur.

For Appellants : Mr. V.Parivallal

For Respondent : Mr.D.Raghu for TNSTC

J U D G M E N T

This appeal has been filed for enhancement of the compensation granted by the Tribunal in award dated 19.07.2011, made in M.C.O.P. No.600 of 2005, on the file of the Motor Accident Claims Tribunal, Sub Court, Tirupattur.



2. The appellants herein are the claimant initially filed M.C.O.P. No.600 of 2005, on the file of the Sub Court, Tirupattur, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by the 1st appellant in the accident that took place on 13.11.2005 at about 7.00p.m.

3. Brief facts of the case is that on 13.11.2005 at about 7.pm, the 1st respondent driver drove the bus in a rash and negligent manner, near Palappanur Junction road bus stop, the driver of the bus took the bus suddenly, without waiting for the 1st appellant to board, inside the bus. Due to which, the 1st appellant herein fell down from the bus and rear wheel of the bus ran over the legs and knee of the petitioner. As a result of the said accident, the claimant sustained fracture on his clavicle bone and humorous bone. For the injuries and fracture sustained by him, he filed a claim petition before the tribunal, claiming a sum of Rs.10,000/- as compensation. Pending claim petition, the claimant died and the legal representatives were brought on record as claimants 2 to. The tribunal after considering the documents and evidence, awarded a sum of Rs.30,000/- as compensation to the claimant. Not being satisfied with the compensation awarded by the Tribunal, the appellants 2 to 4 have preferred this appeal for enhancement of compensation.

4. Before the Tribunal, the claimants examined witnesses P.W.1 to P.W.3 and marked documents Exp1 to P13. The Transport Corporation examined its official as R.W.1 and marked documents R1 & R2.

5. The learned counsel appearing for the appellants contended that the deceased has lost his occupation due to the permanent disability on the left leg at the age of 56 years, who was a Carpenter by occupation. It is further contended by the appellant that the tribunal failed to consider the fact that the deceased was injured and had taken treatment as in-patient for more than four months and due to gravities of the injuries, the deceased was died. The tribunal failed to follow the multiplier method to arrive compensation and also failed to consider the Medical Bills produced by the appellant and awarded the compensation amount of Rs.30,000/- only to the claimants 2 to 4, ignoring the exhibits filed on behalf of the claimants/appellants 2 to 4. It is the further contention of the learned counsel for the appellant that the tribunal has not awarded any compensation amount under the heads viz., 1. Transportation, 2. Extra Nourishment and 3. Attendant Charges. In any event, the amounts awarded by the Tribunal, without considering the injuries and disability of the 1st claimant is meagre and prayed for enhancement of the compensation.

6. On the other hand, the learned counsel appearing for



the respondent/Transport Corporation submitted that the tribunal after considering the evidence and genuineness of the documents marked by the appellants, has rightly awarded compensation to the claimants. Therefore, the compensation awarded by the tribunal does not warrants any interference by this Court.

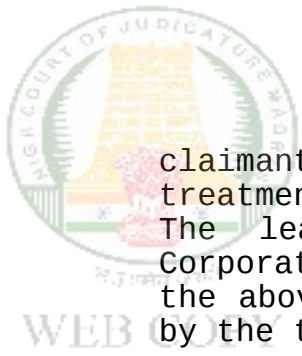
7. Heard learned counsel appearing for the appellants/claimants as well as the respondent/Insurance Company and perused the materials available on record.

8. From a perusal of records, it is seen that the claimants have marked Exhibits P1, P3 to P6 namely FIR, Wound Certificate, Treatment Certificate, discharge summary issued by the Vaniyambadi Government Hospital and Vellore Government Hospital to substantiate his claim and to prove the treatment taken by him as inpatient for the injuries and disability sustained by him in the said accident. It is also seen that the deceased 1st appellant had taken treatment as inpatient from 13.11.2005 to 21.01.2006 and died after six months, after discharge from the hospital. There are no materials to show that the deceased claimant had taken continuous treatment in private hospitals after the date of discharge from the above Government Hospitals. Therefore, in the absence of any materials, the contention of the learned counsel for the appellant that the death caused to the deceased is subsequent and continuous action of treatment for his injuries sustained in the said accident cannot be accepted and the same liable to be rejected.

9. The tribunal has also observed that as per Ex.P6/Discharge Summary, it is clear the deceased Karunakaran was discharged from Vellore Government Hospital after complete recovery from his injuries. But PW1/Kokila in his oral evidence has deposed that the deceased Karunakaran, after discharge from Vellore Government Hospital, had taken continuous treatment for his bone fracture in a private hospital and died. If that would be the case, the claimants can very well obtain medical reports and bills from the private hospital and produce the same, but no documents were filed.

10. Further, the tribunal by considering the Ex.P2 to P5, has awarded a sum of Rs.25,200/- towards 'Extra Nourishment' and as per Ex.P9/Car rental receipt, the tribunal has awarded a sum of Rs.4800/- as additional amount. In total Rs.30,000/- was awarded by the tribunal.

11. Though the claimants failed to produce any documents for the continuous treatment taken by the deceased Karunakaran, in view of fracture and injuries sustained by the deceased, this Court is of the view that apart from the compensation awarded by the tribunal, some reasonable amount can be awarded to the



claimants under the following heads 1. Loss of income during treatment period, 2.Attendant Charges and 3. Damages to Cloths. The learned counsel appearing for the respondent/Transport Corporation has not seriously disputed for granting amount under the above heads to the claimants. Accordingly, the award passed by the tribunal is enhanced under various heads as follows;

Heads	Compensation awarded by the tribunal Rs.	Compensation modified by this Court Rs.
Extra Nourishment	25,200/-	25,200
Transport Expenses	4,800/-	4,800/-
Loss of income during treatment period	...	10,000/-
Attendant Charges	...	5,000/-
Damage to Cloths	..	1,000/-
Total	30,000/-	46,000/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed, the total compensation of Rs.30,000/- awarded by the tribunal is enhanced to Rs. 46,000/- along with interest at the rate of 7.5% per annum.

13. The respondent /Transport Corporation shall deposit the enhanced compensation amount, as modified by this Court along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Appellants /Claimants are permitted to withdraw the amount modified by this Court as per apportionment fixed by the tribunal by filing appropriate application before the tribunal. No costs.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

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To

1. The Subordinate Judge,
(Motor Accident Claims Tribunal),
Tirupattur.

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

+1cc to M/s.D.Raghu, Advocate, S.R.No.3736

+1cc to M/s.V.Parivallal, Advocate, S.R.No.4125

CMA.No.3880 of 2011

SSV(CO)
SB(02/09/2021)