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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

C.M.A.No.609 of 2012

1.M.Subramanian

2.M.Vijaya

... Appellants/Petitioners

..Vs..

1.M.GokulaKrishnan

2.The Managing Director

Tamil Nadu Transport Corporation

Kancheepuram.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in MCOP.No.582 of 2002 dated 06.08.2003 on the file of the learned Motor Accident Claims Tribunal, (Fast Track Court-II Ranipet, Vellore Additional District and Sessions Judge) transferred from the (Sub Court, Ranipet M.C.O.P.No.295 of 1998).

For Appellants : Mr.Gowri Shankar
for Mr.G.Jeremiah

For Respondents: Mr.Ramanathan
for Mr.K.J.Sivakumar for R2
R1- Notice unserved

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the award passed in MCOP.No.582 of 2002 dated 06.08.2003 on the file of the learned Motor Accident Claims Tribunal, (Fast Track Court-II Ranipet, Vellore Additional District and Sessions Judge) transferred from the (Sub Court, Ranipet M.C.O.P.No.295 of 1998).

2. The appellants/claimants are the children of the deceased Kannamal. It is the case of the claimants that on 11.12.1996 at about 8.50 a.m, the deceased Kannamal along with her brother-in-law were waiting in the bus stop near Salai Junction at Sholinghur-Arakonam Road to go to Arakkonam. At that time, the first respondent drove the Bus bearing Reg.No.TN-01-



9013 in a rash and negligent manner and hit the deceased and she sustained fatal injuries and died on the spot. It is the further case of the claimants that the deceased was working as a Sweeper in the Indian Bank, Minnal Branch and earning a sum of Rs.1,338/- per month. Hence, the appellants/claimants filed a claim petition for a sum of Rs.3,00,000/- for the death their mother.

3. In order to prove the claim on the side of the appellants / claimants, the first claimant examined himself as PW1 besides examining PW2, the eye witness to the accident, and Exs.P1 to P4 were marked. On the side of the second respondent/Transport Corporation, one Nedunchezian, conductor of the Bus was examined as RW1 and no documents were marked on their side.

4. On appreciation of materials and the evidence on record, the Tribunal arrived at a finding that the accident had occurred owing to the rash and negligent driving of the Bus bearing Reg.No.TN-01-9013. On coming to such a finding, the Tribunal directed the second respondent / Transport Corporation to pay the compensation amount of Rs.91,000/- with 9% interest. The break-up details of the amounts awarded by the Tribunal are as follows:

S.No.	Compensation awarded under the head	Amount in Rs.
1.	Loss of Expectation	[800x12x8] 76,800
2.	Funeral Expenses	4,200
3.	Loss of Love and Affection	10,000
	Total	91,000

5. According to the learned counsel for the appellants/ claimants, the deceased Kannamal was working as a Sweeper in Indian Bank and earning a sum of Rs.1,388/- per month. However, after deductions, the Tribunal fixed only a sum of Rs.800/- as monthly income. Further, as the age of the deceased was 50 at the time of the accident, the correct multiplier to be applied as per the decision rendered by the Hon'ble Supreme Court in Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121, is "13", but the Tribunal has taken multiplier "8" and made a wrong calculation. He further submitted that the amounts awarded by the Tribunal under other heads are also too low and they need to be enhanced significantly.

6. The learned counsel for the second respondent/Transport Corporation would submit that the the



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Tribunal, on considering the oral and documentary evidence produced by the claimants, has rightly fixed the compensation amount to the appellants/claimants. However, the Tribunal has fixed higher rate of interest at 9% and the same needs to be reduced to 7.5%.

7. This Court considered the rival submissions and perused the materials available on record.

8. It is an admitted fact that the deceased was working as a Sweeper in Indian bank and earning Rs.1,388/- per month and the claimants marked Ex.P4, Salary Certificate to prove the same. However, the Tribunal by deducting more than half of the wages for the up keep of the deceased, had taken only Rs.800/- as the monthly income. In such circumstances, this Court is of the view that by deducting 1/3 of the amount towards personal expenses, the Tribunal ought to have fixed monthly income of the deceased at Rs.926/-. Further, considering the age of the deceased being 50 years at the time of the accident, the correct multiplier to be applied while calculating "Loss of Expectation" as per Sarla Verma case is "13", whereas the Tribunal wrongly applied "8". Thus, if a sum of Rs.926/- is taken as monthly income of the deceased and multiplier "13" is applied, the "Loss of Expectation" comes to Rs.1,44,456/- [926 x 12 x 13].

9. Further, this Court finds that the sum of Rs.10,000/- awarded by the Tribunal under the head "Love and Affection" appears to be on the lower side and as such, the same is hereby enhanced to Rs.20,000/-.

10. Similarly, this Court finds that the sum of Rs.4,200/- awarded by the Tribunal under the head "Funeral Expenses" is also on the lower side, and hence, the same is enhanced to Rs.20,000/-.

11. This Court also finds that no amount has been awarded under the head "Loss of Estate" and hence a sum of Rs.15,000/- is awarded under such head.

12. Accordingly, the modified compensation payable would be:

Heads	Amount awarded by the Tribunal	Enhanced compensation
Loss of Expectation	Rs.800 x 12 x 8 = 76,800/-	Rs. 926 x 12 x 13 =1,44,456/-
Love and Affection	Rs.10,000/-	Rs. 20,000/-
Funeral Expenses	Rs. 4,200/-	Rs. 20,000/-



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Heads	Amount awarded by the Tribunal	Enhanced compensation
Loss of Estate	-	Rs. 15,000/-
Total	Rs. 91,000/-	Rs.1,99,456/- (rounded off to Rs.1,99,000/-)

13. It is the contention of the learned counsel for the Transport Corporation that the Tribunal has fixed higher rate of interest at 9% for the compensation amount. The said contention of the learned counsel for the Transport Corporation has some force. Hence, the rate of interest fixed by the Tribunal at 9% per annum from the date of petition, stands modified to 7.5% from the date of petition till the date of deposit.

14. In the result, the appeal is partly allowed by enhancing the compensation amount from Rs.91,000/- to Rs.1,99,000/- (Rupees One Lakh Ninety Nine Thousand Only) along with interest at 7.5% from the date of petition till the date of deposit.

15. The second respondent/Transport Corporation shall deposit the enhanced compensation amount, as awarded 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 twelve weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw the same as per the ratio apportioned by the Tribunal, on making proper application. The claimants shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-

Assistant Registrar (CS-VII)

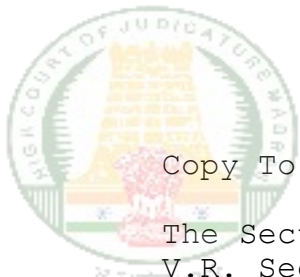
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Sub Assistant Registrar

dna

To

1.The Motor Accident Claims Tribunal,
(Fast Track Court-II Ranipet, Vellore District
Additional District and Sessions Judge)
transferred from the (Sub-Court, Ranipet)



Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

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+1cc to Mr.G.Jeremiah, Advocate, S.R.No. 8554

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.8611

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VG II (CO)

GN (22/09/2021)