



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CMA.No.3008 of 2013

1.Chandran (Died)
2.Minuyammal
3.Sasikumar
4.Sathya
5.Pachaiyammal

... Appellants/Petitioners

..Vs..

The Managing Director,
State Express Transport Corporation Ltd.,
Tamilnadu

...Respondent/Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 08.12.2010 made in M.C.O.P.No.498 of 2006 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellants	: Ms.Subadra
For Respondent	: Mr.K.Kathiresan

JUDGMENT

Dissatisfied with the judgment and decree, dated 08.12.2010 in MCOP.No. 498 of 2006 passed by the tribunal awarding compensation of Rs.4,50,000/- along with interest at the rate of 7.5% per annum, the claimant are before this Court for enhancement of compensation.

2. It is the case of the claimant/appellant herein, on 11.03.2005 at about 18 hrs while the deceased namely Sathish riding tow wheeler bearing Reg.No. TN07-AD-4594 on the left side of the ECR Road near Paramkeni, Maduvenkarai (South to North), at that time a State Express Transport Corporation Bus bearing Reg.No. TN01-N-6278 came in the wrong side in a rash and negligent manner and hit the deceased, as a result, the deceased died. The accident had occurred only due to the rash and negligent driving on the part of the driver of the Government Bus. Being legal heirs of the deceased, the parents, brothers and sisters have filed a claim petition, claiming compensation for a sum of Rs.12,00,000/-.

3. The tribunal based on the evidence and documents, has fixed the negligence on the part of the driver of the State Express Transport Bus and directed the Transport Corporation



to pay a sum of Rs.4,50,000/- as compensation to the claimants. Challenging the quantum of compensation, the claimants are before this Court for enhancement of compensation.

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4. On the side of the claimants, four witnesses P.W.1 to P.W.4 were examined and twelve documents Ex.P1 to P12 were marked. On the side of the respondents, one official witnesses RW1 was examined and no documents were marked.

5. The learned counsel appearing for the appellants/claimants has submitted that the tribunal without considering the fact that the deceased was working as driver and was earning Rs.7,000/- per month, has fixed only a sum of Rs.3000/- per month. The sum awarded under the head 'loss of love and affection' at Rs.10,000/- for the claimants is very less. The tribunal has not considered the fact that the deceased was the only male earning member of their family. The learned counsel for the appellant further submitted that the tribunal has not awarded compensation under the head 'loss of estate' and the compensation awarded under heads are also very meagre. Hence the compensation awarded by the tribunal required to be enhanced.

6. The learned counsel appearing for the respondent/Transport Corporation objected for enhancement of compensation and submitted that based on the evidence and documents, the tribunal has awarded compensation to the claimants, which is fair and reasonable and does not require any modification by this Court.

7. Heard the learned counsel appearing for the appellants, the learned counsel appearing for the respondent/Transport Corporation and perused the materials available on record.

8. From a perusal of the document Ex.P5/Driving license of the deceased reveals that the deceased had licence to drive light motor vehicles and motor cycle. The deceased had not obtained any licence or badge to drive transport vehicles. Though PW4/Venkatraman, employer of the deceased was examined, he has not produced any documents to show his business and he has employed the deceased as his driver. In the absence of documents, the tribunal has fixed notional monthly income at Rs.3000/-, which is fair and reasonable. The tribunal has calculated the loss of income by adopting multiplier 15, as per the age of the parents and deducted 1/4 of the income towards personal and living expenses. As per the principles laid down by the Hon'ble Supreme Court in Sarala Verma's case, for the deceased bachelor, 50% of the total income to be deducted and as per the age of the deceased who was 25 years at the time of the accident, according to his age, multiplier 18 to be adopted and 40% of the total income to be added towards future prospects. By applying the above principles,



the loss of income for the deceased is modified at Rs. 4,53,600/- (3000 x 1/ 2 +40% x 12 x 18).

9. With regard to the compensation awarded by the tribunal under the head 'Loss of love and affection' at Rs.40,000/- is fair and reasonable and the same is confirmed. The tribunal has not awarded compensation for Loss of estate, hence a sum of Rs.15,000/- is granted under the said head. The compensation awarded for Funeral expenses at Rs.5,000/- is enhanced to Rs.10,000/-. Thus the award of the tribunal is modified by this Court as follows:

Heads	Compensation awarded by the tribunal Rs.	Compensation modified by this Court Rs.
Loss of income	4,05,000	4,53,600
Loss of Love and Affection	40,000	40,000
Loss of Estate	...	15,000
Funeral expenses	5,000	10,000
Total	4,50,000/-	5,18,600/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the tribunal at sum of Rs. 4,50,000/- is enhanced to Rs. 5,18,600/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

11. The respondent/Transport Corporation is directed to deposit the entire compensation amount along with interest as modified by this Court, less the amount already deposited, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants/claimants are permitted to withdraw the compensation as modified by this Court along interest and costs as per the apportionment fixed by the tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
II Court of Small Causes,
Chennai.

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Copy To

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

+1cc to Mr.M.Malar, Advocate, S.R.No.13298

CMA.No.3008 of 2013

SRA (CO)
GN (27/09/2021)