



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1184 of 2021

1.Rajeswari

2.Divya

3.Dineshkumar

4.Minor.Abinaya

(Minor 4th appellant rep.by next friend/ Mother/
Natural Guardian Rajeswari, 1st appellant herein)

5.Angammal

..Appellants/Petitioners

Vs.

The Managing Director,
TamilNadu State Transport Corporation Limited,
Kumbakonam Divisional,
Periya Milaguparai,
Nearby Collector Office,
Trichy District - 620 001.

..Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 15.06.2020 made in M.C.O.P.No.453 of 2019, on the file of the Motor Accidents Claims Tribunal, Principle District Court, Namakkal.

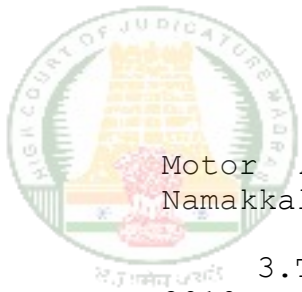
For Appellants : Mr.M.Lokesh
for Mr.Ma.P.Thangavel

For Respondent : Mr.D.Venkatachalam

J U D G M E N T

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

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 15.06.2020 made in M.C.O.P.No.453 of 2019, on the file of the



Motor Accidents Claims Tribunal, Principle District Court, Namakkal.

3.The appellants are the claimants in M.C.O.P.No.453 of 2019, on the file of the Motor Accidents Claims Tribunal, Principle District Court, Namakkal. They filed the above said claim petition, claiming a sum of Rs.30,00,000/- as compensation for the death of one Raja, who died in the accident that took place on 30.05.2019.

4.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 belonging to respondent-Transport Corporation and directed the respondent to pay a sum of Rs.9,47,500/- as compensation to the appellants.

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

6.The learned counsel appearing for the appellants contended that at the time of accident, the deceased was a Carpenter aged 46 years and was earning a sum of Rs.20,000/- per month. But, the Tribunal has fixed a meagre sum of Rs.6,000/- per month as notional income of the deceased. The Tribunal ought to have fixed atleast a sum of Rs.20,000/- as monthly income of the deceased and awarded compensation. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of compensation.

7.Per contra, learned counsel appearing for the respondent-Transport Corporation contended that the appellants failed to prove the avocation and income of the deceased by producing valid document. In the absence of any material evidence with regard to avocation and income, a sum of Rs.6,000/- 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.9,47,500/- as compensation to the appellants, which is excessive. Hence, the appellants are not entitled for any enhancement and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondent-Transport Corporation and perused the entire materials on record.

9.It is the case of the appellants that at the time of accident, the deceased was a Carpenter aged 46 years and was earning a sum of Rs.20,000/- per month. The appellants have not proved the avocation and income of the deceased by producing



valid document. In the absence of any valid 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.6,000/- per month as notional income of the deceased. The accident is of the year 2019. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.13,000/- per month is fixed as notional income of the deceased. As per Ex.P6/death certificate, the deceased was aged 46 years at the time of accident. 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 '13' and granted 25% enhancement towards future prospects. There are five dependants of the deceased and the Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. Thus, by fixing Rs.13,000/- per month as notional income of the deceased, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.19,01,250/- {Rs.16,250/- [Rs.13,000/- + Rs.3,250/- (25% of Rs.13,000/-)] X 12 X 13 X $\frac{3}{4}$ }. 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 is 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	8,77,500/-	19,01,250/-	Enhanced
2.	Loss of consortium to 1 st appellant	40,000/-	40,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of estate	15,000/-	15,000/-	Confirmed
	Total	Rs.9,47,500/-	Rs.19,71,250/-	Enhanced by Rs.10,23,750/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.9,47,500/- is hereby enhanced to Rs.19,71,250/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 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 twelve weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.453 of 2019, on the file of the Motor Accidents Claims Tribunal, Principle District Court, Namakkal. On such deposit, the appellants 1 to 3 & 5 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. The share of the minor 4th appellant is directed to be deposited in any one of the Nationalized Banks, till the minor 4th appellant attains majority. On such deposit, the 1st appellant, being the Mother of the minor 4th appellant is permitted to withdraw the accrued interest once in three months for the welfare of the minor 4th appellant. The appellants are directed to pay the necessary Court fee as per the order of this Court dated 17.03.2021 made in C.M.P.No.4684 of 2021 in C.M.A.No.SR.21610 of 2021. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Principal District Judge,
Motor Accident Claims Tribunal,
Namakkal.

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

+1 CC to Mr.Ma.P.Thangavel, Advocate sr 20435
+1 Cc to Mr.D.Venkatachalam, Advocate sr 21100.

C.M.A.No.1184 of 2021

VBM(CO)
SP(19/11/2021)