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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.1168 of 2021

1.V.Savithri

2.V.Ragupathi

3.A.Vennila

4.S.Saritha

5.V.Sangeetha

6.Krishnaveni

... Appellants/Petitioners

Vs.

The Managing Director,
Tamilnadu State Transport Corporation
(VPM-Divn.1) Limited,
Villupuram - 605 602.

... Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 13.08.2020 made in M.C.O.P. No.4131 of 2014, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Cuddalore.

For Appellants : Mrs.Ramya V.Rao
for M/s.A.N.Viswanatha Rao

For Respondent : Mr.K.J.Sivakumar (For R2)

J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode")

This appeal has been filed for enhancement of the compensation granted by the Tribunal in the award dated 13.08.2020 made in M.C.O.P. No.4131 of 2014, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Cuddalore.



2.By consent of the learned counsel appearing for the appellants as well as the respondent, the appeal is taken up for final disposal at the admission stage itself.

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3.The appellants/claimants filed M.C.O.P.No.4131 of 2014, on the file of the Principal District Court, (Motor Accidents Claims Tribunal), Cuddalore, claiming a sum of Rs.30,00,000/- as compensation for the death of one Vaithiyanathan who died in the accident that took place on 09.09.2014.

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 owned by the respondent and directed the respondent-Transport Corporation to pay a sum of Rs.12,90,000/- as compensation to the appellants.

5.Not being satisfied with the amounts awarded by the Tribunal in the award dated 13.08.2020 made in M.C.O.P. No.4131 of 2014, the appellants have come out with the present appeal.

6.The learned counsel appearing for the appellants contended that at the time of accident, the deceased Vaithiyanathan was doing Vegetable Business along with real estate business and was earning a sum of Rs.15,000/- per month. The Tribunal fixed only a meagre sum of Rs.8,000/- per month as notional income of the deceased. The Tribunal erroneously granted only a meagre sum of Rs.10,000/- each towards loss of love and affection to the appellants 2 to 6, instead of Rs.40,000/- each as per the rulings of the Hon'ble Apex Court. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of the compensation.

7.Per contra, the learned counsel appearing for the respondent-Transport Corporation contended that in the absence of any evidence by the appellants to prove the avocation and income of the deceased Vaithiyanathan, the Tribunal fixed a sum of Rs.8,000/- per month as notional income and the same is not meagre. The total compensation awarded by the Tribunal is not meagre. The appellants have not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.

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



9. It is the case of the appellants that at the time of accident, the deceased Vaithiyanathan was aged 50 years, doing Real Estate Business and Vegetable and seasonal fruits/goods Business and was earning a sum of Rs.15,000/- per month. They did not file any document to prove the same. In the absence of any evidence to prove the avocation and income, the Tribunal fixed a sum of Rs.8,000/- per month as notional income and granted 25% enhancement towards future prospects of the deceased Vaithiyanathan. The accident is of the year 2014. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Considering the year of accident, age and nature of work done by the deceased, the notional income fixed by the Tribunal is enhanced to Rs.12,000/- per month. Considering the age of the deceased, the Tribunal rightly applied the multiplier '13' and deducted 1/4th towards personal expenses, as there are 6 dependents of the deceased. Hence, fixing the monthly income at Rs.12,000/-, granting 25% enhancement towards future prospects, applying multiplier '13' and after deducting 1/4th towards personal expenses of the deceased, the amounts granted by the Tribunal towards loss of dependency is modified to Rs.17,55,000/- {[Rs.12,000/- + Rs.3,000/- (25% of Rs.12,000/-)] x 12 x 13 x 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 are 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	11,70,000/-	17,55,000/-	Enhanced
2.	Loss of love and affection to appellants 2 to 6	50,000/-	50,000/-	Confirmed
3.	Loss of estate, loss of consortium & funeral expenses	70,000/-	70,000/-	Confirmed



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Total	12,90,000/-	18,75,000/-	Enhanced by Rs.5,85,000/-
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10. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.12,90,000/- is enhanced to Rs.18,75,000/- together with interest at the rate of 8% 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, 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.4131 of 2014. On such deposit, the appellants are permitted to withdraw their respective share of the award amount, now determined by this Court, along with proportionate interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa

To

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

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

+2cc to Mr.A.N.Viswanatha Rao, Advocate Sr.20643
+1cc to Mr.K.J.Sivakumar, Advocate Sr.20268

C.M.A.No.1168 of 2021

vbm[co]
srg 28/10/2021