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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.1770 of 2021

1.M.Radhika

2.Minor. Guru

3.Minor. Kishore

4.Minor. Kesavan

(Minor appellants 2 to 4 represented by their Mother
and next friend, M.Radhika, 1st appellant herein)

5.Anjalai

.. Appellants/Petitioner

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation
(Vpm-Divn.I) 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 30.01.2019 made in M.C.O.P.No.2 of 2015, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore.

For Appellants : Ms.Ramya V.Rao

For Respondent : Mr.C.S.K.Sathish

J U D G M E N T

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

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the Tribunal in the award dated 30.01.2019 made in M.C.O.P.No.2 of 2015, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore.



2.The appellants are the claimants in M.C.O.P.No.2 of 2015, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore. The appellants are wife, sons and mother of the deceased. They filed the above said claim petition, claiming a sum of Rs.30,00,000/- as compensation for the death of Murugan, who died in the accident that took place on 16.11.2014.

3.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 the respondent/Transport Corporation and directed the respondent/Transport Corporation to pay a sum of Rs.10,83,000/- as compensation to the appellants.

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

5.The learned counsel appearing for the appellants contended that at the time of accident the deceased was aged 38 years, working as loadman at Anbu Chicken Wholesale Distributor, Kurinjipadi and was earning a sum of Rs.15,000/- per month. But, the Tribunal has fixed a meagre sum of Rs.6,000/- per month as notional income of the deceased. The accident occurred in the year 2014, the notional income fixed by the Tribunal is meagre. The Hon'ble Apex Court granted in Syed Sadiq's case for an accident which took place in the year 2008 a sum of Rs.6,500/- for a vegetable vendor. The Tribunal failed to award any amount towards loss of love and affection to the appellants 2 to 5 and prayed for enhancement of compensation.

6.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 documents. 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 after considering all the records in proper perspective, rightly awarded just compensation. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

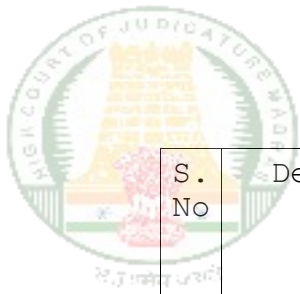
7.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondent/Transport Corporation and perused the entire materials on record.

8.It is the case of the appellants that at the time of



accident the deceased was aged 38 years, working as loadman at Anbu Chicken Wholesale Distributor, Kurinjipadi and was earning a sum of Rs.15,000/- per month. Except oral evidence, the appellants have not filed any document to prove the avocation and income of the deceased. 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 2014 and the cost of living has increased enormously. Hence, a sum of Rs.12,000/- per month is fixed as notional income of the deceased. The Tribunal following the judgment of the Hon'ble Apex Court reported in 2017 (2) TN MAC 609 [National Insurance Company Limited Vs. Pranay Sethi and others], rightly granted 25% towards future prospects. There are five dependants of the deceased and the Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. Considering the age of the deceased, the Tribunal rightly applied multiplier '15'. Thus, by fixing Rs.12,000/- per month as notional income of the deceased, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.20,25,000/- {Rs.15,000/- [Rs.12,000/- + Rs.3,000/- (25% of Rs.12,000/-)] X 12 X 15 X 3/4}. The Tribunal failed to award any amount towards loss of love and affection to the appellants 2 to 5. Therefore, the appellants are entitled to a sum of Rs.40,000/- each towards loss of love and affection. This Court is of the considered view that the amounts awarded by the Tribunal altogether towards loss of estate, loss of consortium and funeral expenses is 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	10,12,500/-	20,25,000/-	Enhanced
2.	Loss of estate, Loss of consortium and funeral expenses	70,000/-	70,000/-	Confirmed
3.	Loss of love and affection to appellants 2 to 5 (Rs.40,000/- each)	-	1,60,000/-	Granted



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
	Total	Rs.10,82,500/- rounded off to Rs.10,83,000/-	Rs.22,55,000/-	Enhanced by Rs.11,72,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,83,000/- is hereby enhanced to Rs.22,55,000/- 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 six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.2 of 2015, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore. On such deposit, the appellants 1 & 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 appellants 2 to 4 are directed to be deposited in any one of the Nationalized Banks, till the minor appellants 2 to 4 attain majority. On such deposit, the 1st appellant, being the Mother of the minor appellants 2 to 4 is permitted to withdraw the accrued interest once in three months for the welfare of the minor appellants 2 to 4. The appellants are directed to pay the necessary Court fee on the enhanced amount of compensation now determined by this Court. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mtl

To

Motor Accident Claims Tribunal,
The Principal District Judge,
Cuddalore.



+1cc to Mr.AN.Viswanatha Rao, Advocate, S.R.No.30340

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C.M.A.No.1770 of 2021

PP (CO)
CT (22/09/2021)