



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1509 of 2021

1.Ramasamy, S/o.Manickamudaliyar
2.Lakshmi, W/o.Periyasamy ... Appellants/Claimants

Vs.

The Managing Director
Tamilnadu State Transport Corporation Ltd.
Ranithottam, Nagercoil, Kanniyakumari District ... Respondent/
Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 13.09.2019 made in M.C.O.P.No.492 of 2014 on the file of the Motor Vehicle Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondent : Mr.K.Ponraj
for Mr.D.Raghu

JUDGMENT

The claimants are the appellants in this appeal. They have filed this appeal against the impugned judgment and decree dated 13.09.2019 passed in M.C.O.P.No.492 of 2014 on the file of the Motor Vehicle Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode.

2.By the impugned Judgment and decree, the Tribunal has awarded a sum of Rs.13,90,800/- as compensation. This appeal has been filed for enhancement of the above compensation by another sum of Rs.2,00,000/-.

3.In this appeal, the learned counsel for the appellants submits that the tribunal has considered very low notional income at Rs.9,000/- for awarding compensation towards dependency. It is submitted that the Division Bench of this Court in C.M.A.No.4314 of 2019 vide order dated 07.01.2021, has



considered the notional income as Rs.18,000/- for the purpose of awarding compensation under the similar circumstances where the deceased was a final year Engineering student. It is therefore submitted that the compensation awarded by the tribunal may be enhanced by considering a notional income of the deceased at Rs.15,000/-.

4.Learned counsel for the Tamilnadu State Transport Corporation submits that the impugned judgment and decree passed by the tribunal is well reasoned and requests no interference. He submits that the deceased is the son of the 1st appellant and brother of the 2nd appellant. The death was due negligence of the deceased who was by trying to locate a lost article of to his friend when the accident occurred. It is therefore submitted that even if the quantum of compensation is enhanced, this Court can consider the facts and proportionately reduce the amount of compensation on account of contributory negligence of the deceased.

5.Heard the counsels for the appellants and respondent. Considering the defence, I have perused the impugned judgment and decree and the exhibits that were marked before the tribunal and the deposition of the witnesses before the tribunal.

6.In my view the tribunal has by and large which awarded a just compensation. It is notified that the Tribunal has not considered any amount towards loss of filial consortium as per the decision of the Hon'ble Supreme Court in Magma General Insurance Company Ltd. V. Nanuram @ Chuhru Ram and Others reported in (2018) 18 SCC 130.

7. However, In this appeal, the appellant has asked for a meager enhancement of compensation by Rs.2,00,000/-. In my view the prayer of the appellant in this appeal is reasonable and therefore the compensation awarded by the tribunal for a sum of Rs.13,90,800/- is enhanced to Rs.16,00,000/- (Rupees sixteen Lakhs only).

8.The respondent/Tamilnadu State Transport Corporation Ltd., is directed to deposit the enhanced amount of Rs.16,00,000/- (Rupees sixteen lakhs only) together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such made deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment to the credit of the above M.C.O.P.No.492 of 2014 before the Tribunal.

9. On such deposit being made by the respondent / Tamilnadu State Transport Corporation Ltd, the appellants / claimants are permitted to withdraw their respective shares in the same



proportion as it was ordered by the Tribunal, together with interest accrued thereon, less the amount if any already withdrawn, by filing a suitable application before the Tribunal.

9. This Civil Miscellaneous Appeal stands allowed accordingly. No costs.

Sd/-
Assistant Registrar(JJ Act)

//True Copy//

Sub Assistant Registrar

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To

The Motor Vehicle Accident Claims Tribunal
/ Subordinate Court
Tiruchengode.

Copy to:
The Section Officer
Vernacular Section
Madras High Court

+1cc to Mr.D.Raghu, Advocate, S.R.No.28001

C.M.A.No.1509 of 2021

KV(CO)
CB(18/11/2021)