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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.2876 OF 2019

(Through Video Conferencing)

1.Pappa
2.Mariyammal

... Appellants/Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
12, Ramakrishnan Road,
Salem - 636 007.

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 01.12.2018 made in M.C.O.P.No.963 of 2017, on the file of the Motor Accident Claims Tribunal, Special District Judge Court, Salem.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondent : Mr.Vasanthanayagam for
Mr.D.Venkatachalam

JUDGMENT

The claimants are the appellants in this appeal. He is aggrieved by the compensation awarded by the Tribunal in its judgment and decree dated 01.12.2018 on the file of the MACTOP.No.963 of 2017 on the file of the Motor Accidents Claim Tribunal, Special District Judge, Salem.

2. This appeal is filed for enhancement of compensation by the LRs of late Munian who met with an accident on 26.11.2016. By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.2,30,000/- as compensation under the following heads:



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S.No.	Heads of compensation	Amount Awarded by the Tribunal
1.	Loss of Income	Rs.1,80,000/-
2.	Loss of Love and Affection	Rs.20,000/-
3.	Funeral Expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
	Total	Rs.2,30,000/-

3. The Tribunal has fixed the notional income of the deceased as Rs.4,500/- per month to arrive at the above compensation. The learned counsel for the appellant submits that the deceased though aged about 70 years was earning a sum of Rs.12,000/- per month and therefore the compensation ought to have been awarded based on the apposite income. It is further submitted that the deceased was in good health condition at the time of the death and he would be continued to contribute the family.

4. Defending the impugned judgement and decree, the learned counsel for the Respondent / Transport Corporation submits that the impugned judgment and decree, is well reasoned and requires no interference.

5. Heard the learned counsel appearing for the Appellants and perused the entire materials available on record.

6. I am of the view that the Tribunal has considered a meagre income of Rs.4,500/- per month as notional income of the deceased while awarding compensation. The accident is of the year 2016. Even though the deceased was aged about 70 years it could be fair to assume that the deceased would have earned a sum of Rs.7,500/- per month. Accordingly, the compensation is recomputed as follows:

Monthly income = Rs.7,500/-

Contribution to the family per deduction towards personal expenses, 1/3

Contribution to the family = $\text{Rs.7,500} \times \frac{2}{3} \times 12 \times 5 = \text{Rs.3,00,000/-}$

Loss of income = Rs.3,00,000/-

Loss of 'Love and Affection' = Rs.20,000/- to the 2nd Appellant

Loss of consortium - Rs.20,000/- to the 1st appellant (as per the decision of the Hon'ble Supreme Court in Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram on 18 September, 2018). The other amounts awarded by the Tribunal are therefore confirmed. Thus, the total amount of compensation awarded by the Tribunal is enhanced from Rs.2,30,000/- to Rs.3,70,000/-.



7. The Respondent/Transport Corporation is therefore directed to deposit a sum of Rs.3,70,000/- together with the cost awarded by the Tribunal, if any, and interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited within a period of eight weeks from the date of receipt of a copy of this Judgment.

8. On such deposit, the Appellants are entitled to withdraw the compensation in the same proportion as was ordered by the Tribunal.

9. In the result, this Civil Miscellaneous Appeal is partly allowed. No cost.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

drl

To:

The Special District Judge,
The Motor Accidents Claims Tribunal,
Salem.

Copy To

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

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.22413

+2ccs to Mr.T.S.Arthanareeswaran, Advocate, S.R.No.22973

C.M.A.No.2876 of 2019

KK(CO)
RLP(01/11/2021)