



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.2106 of 2021

1. M.Latha
2. S.M.Pavithra (Minor)
3. S.M.Vignesh (Minor)
(Minors 2 and 3 rep by their
mother and natural guardian M.Latha)
...Appellants/Petitioners
vs.

The Managing Director,
State Express Transport Corporation,
Pallavan Salai,
Chennai 600 002
...Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 26.06.2020 made in M.C.O.P.No.2287 of 2016 on the file of the Motor Accidents Claims Tribunal/ II Judge, Court of Small Causes, Chennai.

For Appellants : Ms.Ramya V.Rao

For Respondent :

JUDGMENT

This Civil Miscellaneous Appeal has been filed seeking enhancement of compensation granted by the Tribunal in the award dated 26.06.2020 made in M.C.O.P.No.2287 of 2016 on the file of the Motor Accident Claims Tribunal/II Judge, Small Causes Court, Chennai.

2.The appellants are the claimants in M.C.O.P.No.2287 of 2016 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai..

3.The case of the appellants is that on 10.06.2013 about 23.00 hrs., the first petitioner's husband was a pedestrian, crossing the road at Koyambedu PH road. At that time SETC bus bearing Reg.No.TN-01-N-5953 came from Koyambedu to Maduravoyal direction driven by its driver in a rash and negligent manner endangering public safety and hit against the deceased. Due to that the deceased sustained multiple grievous injury all over



the body. He was admitted in the hospital and thereafter died on 07.04.2014. Hence, the appellants/claimants had filed the above said claim petition, claiming a sum of Rs.40,00,000/- as compensation for the death of the deceased S.Mohan due to the accident, which occurred on 10.06.2013.

4.The Tribunal considering the pleadings, oral and documentary evidence held that the accident had occurred only due to the rash and negligent driving by the driver of the bus belonging to the respondent and allowed the case in part and directed the respondent/Transport Corporation to pay a sum of Rs.26,05,000/- as compensation to the appellants/claimants. The details of the compensation awarded by the Tribunal under the impugned Award, are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Loss of Dependency	21,00,000/-
Loss of Consortium	40,000/-
Loss of Love and Affection	2,00,000/-
Parental Consortium	2,00,000/-
Medical Expenses	50,000/-
Funeral Expenses	15,000/-
Total	26,05,000/-

5.Not being satisfied with the award dated 26.06.2020 made in M.C.O.P.No.2287 of 2016, the appellants/claimants have come out with the present appeal seeking enhancement of compensation.

6.The learned counsel for the appellants contended that the Tribunal ought to have fixed the notional income as Rs.20,000/- since the deceased has left behind 2 minor children and the family is in Chennai. Further, the Tribunal has not granted any amount towards pain and sufferings, as the deceased had been under continuous treatment till his death. He further submitted that the amounts awarded by the Tribunal under different heads are meager and prayed for enhancement of compensation.

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

8.Insofar as the monthly income of the deceased is concerned, P.W.1 has stated that the deceased was an Auto Driver at the time of the accident and was earning a sum of Rs.15,000/- per month. In the absence of any material evidence, the Tribunal considering the age and avocation of the deceased, fixed the



notional income of the deceased at Rs.15,000/- per month, which is reasonable.

9. Since the deceased left behind the appellants/claimants 1 to 3 as legal heirs, as per the decision of the Hon'ble Apex Court in Smt. Sarala Verma & Others vs. Delhi Transport Corporation & Another, reported in 2009(2) TN MAC 1(SC), the Claims Tribunal has rightly deducted 1/3rd as personal expenses of the deceased and thereafter by applying multiplier '14' has rightly awarded a sum of Rs.21,00,000/- (1,50,000 x 14) as compensation towards Loss of Dependency. Hence, the same does not require any interference by this Court. The amounts awarded towards other heads are also reasonable and hence, the same are confirmed.

10. In view of the above, this Court do not find any error in the award dated 26.06.2020 passed by the Tribunal in M.C.O.P.No.2287 of 2016. Hence, this Court is not inclined to interfere with the same.

11. In the result, the Civil Miscellaneous Appeal is dismissed and a sum of Rs.26,05,000/- awarded by the Tribunal as compensation to the appellants/claimants is hereby confirmed. The respondent/Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No.2287 of 2016 on the file of the Motor Accidents Claims Tribunal, II Judge, Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount, as apportioned by the Tribunal directly to the Bank account of the appellants/Claimants through RTGS, within a period of two weeks. Since the award has been confirmed, the money due to the minors shall be kept in the deposits as per the award of the Tribunal and the amounts due to other claimant can be disbursed. No costs.

s/d-

Assistant Registrar

25.11.2021

***Corrected as per order dated 11.04.2022**

in C.M.P.No.5061 of 2022 in C.M.A.No.2106 of 2021

Sd/-

Assistant Registrar

28.04.2022

//True Copy//

Sub-Assistant Registrar

rsi



To:

1. The Motor accident Claims Tribunal/II Judge,
Court of Small Causes,
Chennai.

2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai - 600 104.

+2 Ccs to Mrs.Ramya V. Rao, Advocate sr **24945, 27790**

**To be substituted
order already
despatched on
03.01.2022**

C.M.A.No.2106 of 2021

PP(CO)
SP(08/12/2021)

MG(CO)
RGA(29/04/2022)