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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.3828 OF 2019
(THROUGH VIDEO CONFERENCING)

1.R.Pachiyammal
2.Minor R.Subanesh
3.Kanniyammal
4.K.Aruchamy

... Appellants

.vs.

1.K.Suresh Kumar
2.The Managing Director,
Tamilnadu State Transport Corporation,
2, Trivandrum Road,
Tirunelveli District - 627 003.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 05.10.2018 made in M.C.O.P.No.569 of 2015, on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Sathyamangalam.

For Appellants : Mr.R.Nalliyappan for
Mrs.N.Premalatha

For R1 : No Appearance

For R2 : Mrs.Rajathi P. for
Mr.D.Raghu

JUDGMENT

The claimants are the appellants in this civil miscellaneous appeal. They have filed this appeal for enhancement of compensation. They are aggrieved by the impugned Judgment and decree dated 05.10.2018 passed by the motor Accident Claims Tribunal (Subordinate Judge), Sathyamangalam in M.C.O.P.No.569 of 2015.



2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.16,65,189/- together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, to the 1st to 4th appellants/claimants who are the wife, the daughter, mother and the father of the deceased A.Ravikumar.

3. The break up of the amount awarded by the Lower Court are summarised below:-

Heads	Amount awarded by the Tribunal
Loss of dependency	Rs. 14,58,000/-
Funeral expenses	Rs. 15,000/-
Transport expenses	Rs. 10,000/-
Loss of Love and affection to all the petitioners	Rs. 1,50,000/-
Medical Expenses	Rs. 32,189/-
Total	Rs.16,65,189/-

4. It is the case of the appellants that on 11.06.2015 at about 7.50 P.M. while the deceased A.Ravi Kumar was riding in TVS XL Super Moped bearing Reg.No.TN.41.AB.1485 at Coimbatore to Pollachi Main Road in front of Lakshmi Automatic Looms and proceeding from North to South, an Ashok Leyland TNSTC Bus bearing Reg.No.TN.33.N.2425 driven in a rash and negligent manner and knocked him down, as a result of which, he was thrown out and sustained multiple injuries and was admitted in the Coimbatore Medical College Hospital and later died on the same day at 04.35 P.M. Therefore, the appellants-claimants filed the above claim petition in M.C.O.P No.569 of 2015 for compensation.

5. The learned counsel for the appellants submits that the Tribunal has not awarded any amount towards loss of amenities, future prospects and loss of consortium which are very meager. Hence, he prays for enhancement of compensation .

6. Defending the impugned Judgment and decree, the learned counsel for the 2nd respondent / Transport Corporation Limited submits that the impugned Judgment and decree is well reasoned and requires no interference.

7. I have considered the arguments advanced by the learned counsel for the appellants and the 2nd respondent



Transport Corporation and I have also perused the impugned Judgment and decree passed by the Tribunal and exhibits filed in support of the claim petition.

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8. Considering the fact that the Tribunal ought to have awarded amount towards future prospects, 40% is added on the monthly income of Rs.9,000/- of the deceased. As per the decision of Hon'ble Supreme Court in Magma General Insurance Company Ltd. Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130, a sum of Rs.40,000/- towards loss of love and affection/loss of consortium per claimant and another sum of Rs.30,000/- towards loss of amenities are awarded. In the result, the compensation awarded by the Tribunal is re-computed as follows:-

Heads and calculation	Re-quantified amount of Compensation by this Court
Loss of dependency:- Monthly Income of the deceased : Rs. 9,000/- Add : Future Prospects @ 40% : Rs. 3,600/- ----- Rs. 12,600/- Less : Personal expenses @ $\frac{1}{4}$ (Rs.12,600x1/4) Rs. 3,150/- ----- Total Rs. 9,450/- ----- Annual contribution to the family (Rs.9,450 x 12) : Rs.1,13,400/- Age : 30 Multiplier 17(Rs.1,13,400/- x 17) : Rs.19,27,800/-	Rs.19,27,800/-
Loss of consortium for the appellant	Rs 40,000/-



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Loss of Love and affection (40,000 x 3)	Rs.1,20,00 0/-
Funeral expenses	Rs. 15,000/-
Transportation	Rs. 10,000/-
Loss of amenities	Rs. 30,000/-
Total	Rs. 21,42,800/-

9. Therefore, the respondents are jointly or severally directed to deposit the enhanced compensation of Rs.21,42,800/- together with interest at 7.5% from the date of claim petition till the date of such deposit, to the credit of M.C.O.P.No.569 of 2015 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) Sathyamangalam, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

10. On such deposit, the 1st, 3rd and 4th appellants are permitted to withdraw their respective shares in the same proportion as was ordered by the Tribunal, together with interest accrued thereon, less any amount already withdrawn, by filing suitable applications before the Tribunal. The 2nd appellant was aged about 9 months at the time of filing of the claim petition in 2015. Since the 2nd appellant would have attained the age of majority, he is permitted to file appropriate application before the Tribunal for recording the age of majority to withdraw his share. The Tribunal may thereafter allow the 2nd appellant to withdraw his share.

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above observations. No cost.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

drl



To:

1.The Motor Accidents Claims Tribunal,
Subordinate Judge, Sathyamangalam.

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

+lcc to Mr.D.Raghu, Advocate, S.R.No.25454

C.M.A.No.3828 of 2019

RLD(CO)
PM/16/11/2021