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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2255 & 1476 of 2021 &
CMP.No.12476 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram

...Appellant in CMA.No.2255 of 2021 &
Respondent in CMA.No.1476 of 2021

Vs.

1. Hepzi Glory

2. Issac Godson (Minor)

Rep by mother and next friend the first petitioner

3. E. Boaz

...Respondents in CMA.No.2255 of 2021 &
Appellants in CMA.No. 1476 of 2021

Common prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decretal award passed by the Motor Accident Claims Tribunal (IV Judge, Small Causes Court, Chennai) dated 06.03.2020 in M.C.O.P. No.1299 of 2018.

For Appellants in CMA.No.
1476 of 2021 & Respondents
in CMA.No.2255 of 2021

: Mr. S. Udhayakumar

For Respondent in CMA.No.
1476 of 2021 & Appellant
in CMA.No.2255 of 2021

: Mr. K.J. Shivakumar

COMMON JUDGMENT

(This case was heard through Video Conferencing)

C.M.A. No. 2255 of 2021 has been filed by the Transport Corporation and C.M.A. No.1476 of 2021 has been filed by the



claimants challenging the very same award dated 06.03.2020 passed by the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai in M.C.O.P. No. 1299 of 2018.

2. Since both the appeals are arising out of the very same award, these appeals are disposed of by this common judgment.

3. Heard Mr.K.J.Shivakumar, learned counsel for the Transport Corporation and Mr.S.Udhayakumar, learned counsel for the claimants.

4. The Transport Corporation has filed the Appeal questioning the quantum of compensation awarded by the Tribunal. The claimants have filed the Appeal seeking for enhancement of compensation. The details of the compensation awarded by the Tribunal to the claimants are as follows:

Heads	Amount Awarded by the Tribunal in Rs.
Loss of dependency	16,80,000/- (10000 x 12 = 120000 + 40% = 168000 - 1/3 rd = 112000 x 15)
Loss of consortium	40,000/-
Loss of estate	15,000/-
Funeral expenses	15,000/-
Loss of love and affection	1,00,000/-
Transportation expenses	5,000/-
Total	18,55,000/-

5. The cause of the accident has not been disputed by the Transport Corporation. The only issue that arises for consideration in these Appeals is whether the quantum of compensation awarded by the Tribunal is a just compensation or not?

6. The deceased was aged 37 years at the time of the accident which happened on 07.01.2018. The deceased was a C.C.T.V. Camera Technician in a private concern at the time of the accident. The claimants who are the dependents of the deceased have filed the salary certificate of the deceased which has been marked as Ex.P5 before the Tribunal which discloses that the deceased was earning Rs.16,000/- per month at the time of the



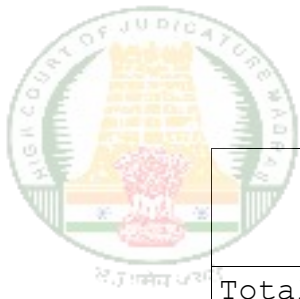
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accident. The Tribunal has rightly not accepted Ex.P5 (Salary Certificate) as the employer of the deceased was not examined as a witness before the Tribunal and fixed the notional monthly income of the deceased at Rs.10,000/-. This Court is of the considered view that if the year of the accident was taken into consideration by the Tribunal, the notional monthly income of the deceased ought to have been fixed at a higher sum. Being a C.C.T.V. Camera Technician, this Court is of the considered view that atleast the deceased could have earned Rs.12,000/- per month at the time of the accident which happened in the year 2018. Accordingly, this Court enhances the notional monthly income of the deceased to Rs.12,000/- instead of Rs.10,000/- erroneously fixed by the Tribunal. The Tribunal has correctly adopted the multiplier of 15 and also rightly awarded loss of future prospects to the claimants at 40% as the deceased was aged 37 years at the time of the accident. The Tribunal has also rightly deducted $1/3^{\text{rd}}$ towards personal expenses of the deceased as the dependents of the deceased are three in number. Since the monthly income of the deceased has been enhanced by this Court to Rs.12,000/- from Rs.10,000/- erroneously fixed by the Tribunal, the loss of dependency is re-assessed by this Court at Rs.20,16,000/- instead of Rs.16,80,000/- erroneously awarded by the Tribunal.

7. Insofar as compensation awarded by the Tribunal under various heads namely loss of consortium, loss of estate, funeral expenses, loss of love and affection and Transportation expenses are concerned, the same is confirmed by this Court as it is a just compensation.

8. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced to Rs.21,91,000/- from Rs.18,55,000/- as detailed hereunder:

Heads	Amount Awarded by the Tribunal in Rs.	Amount Awarded by this Court in Rs.
Loss of dependency	16,80,000/-	20,16,000/- (12,000 x 12 + 40% - $1/3 \times 15$)
Loss of consortium	40,000/-	40,000/-
Loss of estate	15,000/-	15,000/-
Funeral expenses	15,000/-	15,000/-
Loss of love and affection	1,00,000/-	1,00,000/-
Transportation expenses	5,000/-	5,000/-



Heads	Amount Awarded by the Tribunal in Rs.	Amount Awarded by this Court in Rs.
Total	18,55,000/-	21,91,000/-

9. In the result, the Appeal filed by the Transport Corporation in C.M.A. No.2255 of 2021 is dismissed as it does not deserve any merit and the Appeal filed by the claimants in CMA.No.1476 of 2021 is partly allowed by enhancing the compensation from Rs.18,55,000/- to Rs.21,91,000/-.

10. The Transport Corporation/the Appellant in CMA.No.2255 of 2021 as well as the respondent in CMA.No.1476 of 2021 is directed to deposit the amount awarded by this Court, after deducting the amount already deposited if any, together with interest from the date of claim till the date of deposit and cost, to the credit of M.C.O.P.No. 1299 of 2018 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the respective share of award amount lying to the credit of M.C.O.P.No. 1299 of 2018 to the bank account of the claimants/Appellants in CMA.No.1476 of 2021 as well as the respondents in CMA.No.2255 of 2021 in the ratio apportioned by the Tribunal through RTGS within a period of one week thereafter. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

True Copy//

Sub Assistant Registrar

ab/nl

To

1. The Motor Accidents Claims Tribunal,
IV Court of Small Causes
Chennai

2. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.Sivakumar, Advocate, Sr.51660

+1cc to Mr.Udayakumar, Advocate, Sr.51111

CMA.Nos.2255 & 1476 of 2021

SMI [co]

NSK 01/12/2021