

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3466 of 2019

1. Sasikala

2.Thangadurai

3.Tamilarasan Appellants/Petitioners

Vs.

The Managing Director
Tamil Nadu State Transport Corporation Ltd.
Villupuram. Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.03.2019 made in M.C.O.P.No.100 of 2019 on the file of Motor Accident Claims Tribunal, Additional District Court, Ariyalur.

For Appellants : Mr.P.Parthi Kannan
for Mr.S.Kaithamalai Kumaran

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

This matter is heard through 'Video-conferencing'.

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 27.03.2019 made in M.C.O.P.No.100 of 2019 on the file of Motor Accident Claims Tribunal, Additional District Court, Ariyalur.

2.The appellants are claimants in M.C.O.P.No.100 of 2019 on the file of Motor Accident Claims Tribunal, Additional District Court, Ariyalur. They filed the said claim petition claiming a sum of Rs.20,00,000/- as compensation for the death of one Ezhilarasan, who died in the accident that took place on 10.12.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the respondent/Transport Corporation and directed the respondent to pay a sum of Rs.9,37,200/- as compensation to the appellants 1 and 2.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellants contended that the Tribunal without considering the age of the deceased, fixed a meagre sum of Rs.6,000/- per month as notional income of the deceased. The appellants 1 and 2 have lost their elder son at young age. The Tribunal ought to have awarded compensation towards loss of love and affection. The amounts awarded by the Tribunal towards funeral expenses and loss of estate are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the Tribunal considering the age of the deceased, fixed the monthly income of the deceased as Rs.6,000/-, which is not meagre. The total compensation awarded by the Tribunal under different heads are not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8.From the materials on record, it is seen that it is the contention of the appellants that the deceased was aged 18 years at the time of accident and was studying XII standard in a private school. The deceased was earning a sum of Rs.12,000/- per month by doing silk weaving business. The appellants failed to produce any material evidence to prove that the deceased was studying XII standard in a private school and failed to prove his avocation and income. In the absence of any material evidence, the Tribunal fixed a sum of Rs.6,000/- per month as notional income of the deceased. The accident is of the year 2016 and the notional income fixed by the Tribunal is meagre. Hence, a sum of Rs.8,000/- per month is fixed as notional income of the deceased. The Tribunal applied multiplier '18', granted 40% enhancement towards future prospects and deducted 1/2 towards personal expenses, which are proper. Thus, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.12,09,600/- (Rs.8,000/- + 3200 [Rs.8,000/- X

40%] X 12 X 18 X 1/2). The Tribunal has not awarded any compensation towards loss of love and affection. Considering that the appellants 1 and 2 have lost their elder son at young age, a sum of Rs.40,000/- is awarded towards loss of love and affection. The amounts awarded by the Tribunal towards funeral expenses and loss of estate are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	9,07,200	12,09,600	Enhanced
2.	Loss of love and affection	-	40,000	Granted
3.	Funeral expenses	15,000	15,000	Confirmed
4.	Loss of estate	15,000	15,000	confirmed
	Total	9,37,200	12,79,600	Enhanced by Rs.3,42,400/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.9,37,200/- is hereby enhanced to Rs.12,79,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent/Transport Corporation is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants 1 and 2 are permitted to withdraw their respective share of the award amount now determined by this Court as per the apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

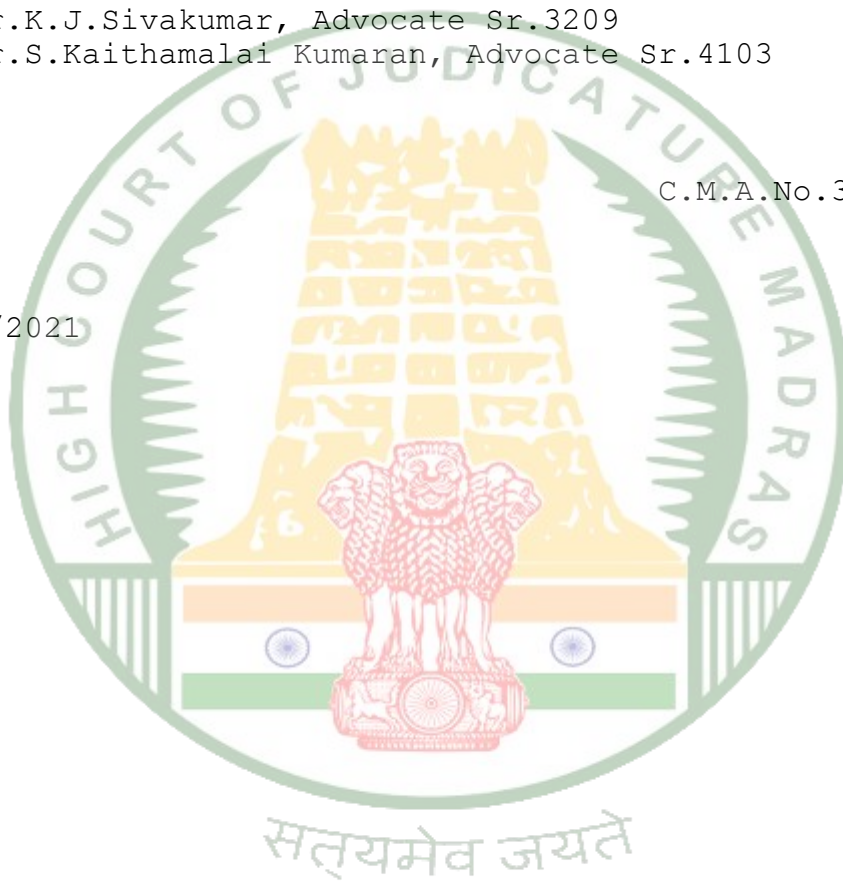
kj
To

The Additional District Judge,
(Motor Accident Claims Tribunal,
Ariyalur.

+1cc to Mr.K.J.Sivakumar, Advocate Sr.3209
+1cc to Mr.S.Kaithamalai Kumaran, Advocate Sr.4103

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