



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2060 of 2014

Amina Beevi .. Appellant/Petitioner
W/o.Mohideen Abdul Khader
Mohideen Abdul Khader (died)
Vs.

Tamil Nadu State Transport Corporation Ltd.,
Rep by its Managing Director,
Vellore Division, Vellore 9. .. Respondent/Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 10.01.2013 made in M.C.O.P.No.26 of 2007 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

For Appellant : Mrs.M.Malar
for Mr.F.Terry Chella Raja
For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the Tribunal in the award dated 10.01.2013 made in M.C.O.P.No.26 of 2007 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

2.The appellant is the claimant in M.C.O.P.No.26 of 2007 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai. The appellant, who is the mother along with father of the deceased filed the above said claim petition, claiming a sum of Rs.6,00,000/- as compensation for the death of their son viz., Mohammed A Illiyas, who died in the accident that took place on 09.03.2005. Pending M.C.O.P., the father of the deceased died.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to



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

6.Per contra, learned counsel appearing for the respondent - Transport Corporation contended that the appellant failed to prove the avocation and income of the deceased. In the absence of any material evidence with regard to avocation and income, the Tribunal fixed a sum of Rs.4,500/- per month as notional income of the deceased and the same is excessive. The total compensation awarded by the Tribunal at Rs.5,21,400/- is not meagre and the appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8. From the materials available on record, it is seen that it is the case of the appellant that at the time of accident the deceased was doing Provisions and Stationary business and was earning a sum of Rs.300/- per day. The appellant failed to substantiate the same by filing document. In the absence of any material evidence, the Tribunal considering the age of the deceased and nature of business, rightly fixed a sum of Rs.4,500/- per month as notional income of the deceased. The deceased was aged 22 years at the time of accident. The Tribunal



has granted 30% enhancement towards future prospects of the deceased and adopted multiplier '14' taking into consideration the age of the mother of the deceased. As per the judgment of the Hon'ble Apex Court reported in 2017 (2) TNMAC 609 (SC), [National Insurance Company Limited Vs. Pranay Sethi and others], the age of the deceased is basis for applying multiplier and the appellant is entitled to 40% enhancement towards future prospects. As per the judgment of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC Supreme Court, [Sarla Verma & others Vs. Delhi Transport Corporation & another], the correct multiplier applicable is '18'. The deceased was a bachelor at the time of accident and the Tribunal has rightly deducted 50% towards personal expenses of the deceased. Thus by granting 40% enhancement towards future prospects and applying multiplier '18', the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.6,80,400/- {Rs.6,300/- [(Rs.4,500/- + Rs.1,800/- (40% of Rs.4,500/-)] x 12 x 18 x $\frac{1}{2}$ }. The amounts awarded by the Tribunal towards loss of love and affection and funeral expenses are meagre and the same are hereby enhanced to Rs.40,000/- and Rs.15,000/- respectively. The Tribunal has not awarded any amount towards loss of estate. The appellant is entitled to a sum of Rs.15,000/- towards loss of estate.

9.It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimant has claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. 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
1.	Loss of pecuniary benefits	4,91,400/-	6,80,400/-	Enhanced
2.	Loss of love and affection	20,000/-	40,000/-	Enhanced
3.	Funeral expenses	10,000/-	15,000/-	Enhanced
4.	Loss of estate	-	15,000/-	Granted
	Total	Rs.5,21,400/-	Rs.7,50,400/-	Enhanced by Rs.2,29,000/-



10. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.5,21,400/- is hereby enhanced to Rs.7,50,400/- together with interest at the rate of 7.5% per annum from the date of numbering of the claim petition i.e. 02.01.2007 till date of payment (excluding the period between 21.07.2010 and 04.07.2012 during which period the petition remained dismissed for default). The respondent-Transport Corporation is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.26 of 2007 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The appellant is directed to pay the necessary Court fee for the enhanced amount of compensation. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Krk

To

1.The Chief Judge,
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.

Copy To

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

+1cc to Mr.M.Malar, , Advocate SR.No.68085
+1cc to Mr.K.J.Sivakumar, Advocate SR.No.67565

C.M.A.No.2060 of 2014

NR(CO)
GN(09/02/2022)