



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.2124 OF 2014

1. M.Semathamma

2. M.Mathiazhagan

3. M.Karunakaran

4. M.Anbu

... Appellants/Petitioners

.Vs.

The Managing Director,
Metropolitan Transport Corporation,
Anna salai, Chennai - 2.

... Respondent/Respondent

PRAYER:-

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 10.08.2012 made in M.C.O.P.No.3900 of 2010 on the file of Motor Accident Claims Tribunal, XVI Additional District Court, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.K.Moorthy

J U D G M E N T

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 10.08.2012 made in M.C.O.P.No.3900 of 2010 on the file of Motor Accident Claims Tribunal, XVI Additional District Court, Chennai.

2. The appellants are claimants in M.C.O.P.No.3900 of 2010 on the file of Motor Accident Claims Tribunal, XVI Additional District Court, Chennai. They filed the said claim petition



claiming a sum of Rs.6,00,000/- as compensation for the death of one Murugesan, who died in the accident that took place on 15.10.2010.

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.3,45,000/- as compensation to the appellants.

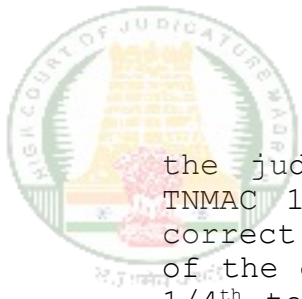
4. Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellants contended that there are four dependants of the deceased and the Tribunal erred in deducting $1/3^{\text{rd}}$ instead of $1/4^{\text{th}}$ towards personal expenses of the deceased. The deceased was aged 59 years at the time of accident. The Tribunal erred in applying multiplier '5' instead of multiplier '9'. The Tribunal has not granted any enhancement towards future prospects. The amounts awarded by the Tribunal towards loss of consortium, loss of love and affection and funeral expenses are meagre and prayed for enhancement of compensation.

6. Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the deceased was aged 59 years at the time of accident and the Tribunal has rightly applied multiplier '5'. The appellants 2 to 4 are major and married sons of the deceased Murugesan and hence, they are not entitled to any compensation. 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 learned counsel appearing for the respondent/Transport Corporation and perused the entire materials available on record.

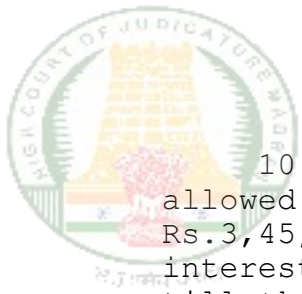
8. From the materials on record, it is seen that it is the contention of the appellants that the deceased was a sewerage worker at the time of accident and was earning a sum of Rs.8,000/- per month. To prove their contention, they examined one Alwin Raj as P.W.3 and marked the salary slip of the deceased as Ex.P7. The Tribunal considering the same, fixed a sum of Rs.8,000/- per month as notional income of the deceased. The deceased was aged 59 years at the time of accident. The Tribunal applied multiplier '5', which is not correct. As per



the judgment of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC (Sarla Verma vs. Delhi Transport Corporation), the correct multiplier applicable is '9'. There are four dependants of the deceased. The Tribunal erred in deducting 1/3rd instead of 1/4th towards personal expenses of the deceased. Therefore, 1/4th has to be deducted towards personal expenses of the deceased. The Tribunal did not grant any enhancement towards future prospects. The appellants are entitled to 10% enhancement towards future prospects. Thus, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.7,12,800/- (Rs.8,000/- + 800 [Rs.8,000/- X 10%] X 12 X 9 X 3/4). The sum of Rs.10,000/- and Rs.5,000/- awarded by the Tribunal towards loss of consortium and funeral expenses are meagre and hence, 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 and hence, a sum of Rs.15,000/- is awarded towards loss of estate. A sum of Rs.10,000/- awarded by the Tribunal towards loss of love and affection is just and reasonable and hence, the same is hereby confirmed. Though the appellants 2 to 4 are major and married sons of the deceased, they are also legal heirs of the deceased and hence, they are entitled to compensation.

9. It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have 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 or reduced
1.	Loss of dependency	3,20,000	7,12,800	Enhanced
2.	Loss of love and affection	10,000	10,000	Confirmed
3.	Loss of consortium	10,000	40,000	Enhanced
4.	Funeral expenses	5,000	15,000	Enhanced
5.	Loss of estate	-	15,000	Granted
	Total	3,45,000	7,92,800	Enhanced by Rs.4,47,800/-



10. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.3,45,000/- is hereby enhanced to Rs.7,92,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay the necessary court fee on the enhanced award amount. 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 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 I)

//True Copy//

Sub Assistant Registrar

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To

1. The XVI Judge,
The Additional District Court,
(Motor Accident Claims Tribunal),
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Chennai.

+1cc to Mr.K.Moorthy, Advocate, S.R.No.65777
+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.65642

C.M.A.NO.2124 OF 2014

CA(CO)
PBS/15/06/2022