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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.2675 of 2014

1. Krishnamurthy
2. Prabhavathy
3. Rajakumari

.. Appellants/Petitioners

Vs.

1. Metropolitan Transport Corporation
(Chennai Division) Limited, rep. by its
Managing Director, Pallavan Salai,
Chennai - 2.
2. E.Ramachandran

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.02.2014 made in M.C.O.P.No.4199 of 2008, on the file of the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai.

For Appellants : Mr.R.Kalai Arasan

For R1 : Ms.Pooja Damodharan

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the Tribunal in the award dated 28.02.2014 made in M.C.O.P.No.4199 of 2008, on the file of the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai.



2.The appellants are the claimants in M.C.O.P.No.4199 of 2008, on the file of the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai. The appellants and the second respondent are sons and daughters of the deceased. They filed the above said claim petition, claiming a sum of Rs.6,00,000/- as compensation for the death of Ranganayagi, who died in the accident that took place on 19.11.2008.

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 first respondent/Transport Corporation and directed the first respondent/Transport Corporation to pay a sum of Rs.1,60,000/- as compensation to the appellants and the second respondent.

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 deceased was working as servant maid and was earning a sum of Rs.4,000/- per month. The Tribunal fixed meagre sum of Rs.3,000/- per month as notional income of the deceased and granted only a sum of Rs.1,20,000/- towards loss of dependency. The Tribunal has not awarded any amounts towards future prospects and loss of estate. The amounts awarded by the Tribunal towards loss of love and affection, funeral expenses and transport expenses are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the first respondent/Transport Corporation contended that the appellants have not produced any material evidence to prove that the deceased was earning a sum of Rs.4,000/- per month. In the absence of any material evidence to prove the avocation and income of the deceased, a sum of Rs.3,000/- per month fixed by the Tribunal as notional income of the deceased is not meagre. As per Ex.P4/legal heirship certificate, the deceased was aged 72 years at the time of accident and the appellants are not entitled to any compensation towards future prospects. The amounts 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.

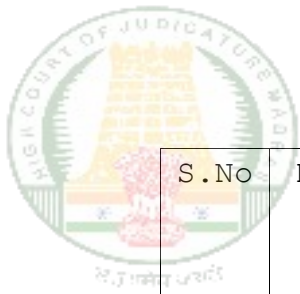
7.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the first respondent/Transport Corporation and perused the entire



materials on record.

8. It is the contention of the appellants that the deceased was working as servant maid and was earning a sum of Rs.4,000/- per month. They failed to prove the said contention. In the absence of any material evidence with regard to avocation and income of the deceased, the Tribunal fixed a sum of Rs.3,000/- per month as notional income of the deceased. The accident occurred in the year 2008 and the notional income fixed by the Tribunal is meagre. Therefore, a sum of Rs.4,000/- per month is fixed as notional income of the deceased. The deceased was aged 72 years at the time of accident, which is evident from Ex.P4/legal heirship certificate and hence, the appellants are not entitled to any compensation towards future prospects. The Tribunal following 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] rightly adopted multiplier '5'. There are four dependants of the deceased and the Tribunal has erroneously deducted 1/3rd towards personal expenses of the deceased instead of deducting 1/4th. Thus, by fixing Rs.4,000/- per month as notional income of the deceased, the compensation awarded by the Tribunal towards loss of dependency is Rs.1,80,000/- [Rs.4,000/- X 12 X 5 X 3/4]. The amounts awarded by the Tribunal towards loss of love & affection, funeral expenses and transport expenses are meagre. A reasonable amount of Rs.15,000/- each to the appellants and the second respondent towards loss of love & affection, and Rs.15,000/- towards funeral expenses and transport expenses respectively. The Tribunal failed to award any amount towards loss of estate. A reasonable amount of Rs.15,000/- is granted towards loss of estate. 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 dependency	1,20,000/-	1,80,000/-	Enhanced
2.	Loss of love and affection to the appellants and the second respondent	25,000/-	60,000/-	Enhanced



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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
3.	Funeral expenses	10,000	15,000/-	Enhanced
4.	Transport expenses	5,000/-	15,000/-	Enhanced
5.	Loss of Estate	-	15,000/-	Granted
	Total	Rs.1,60,000/-	Rs.2,85,000/-	Enhanced by Rs.1,25,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,60,000/- is hereby enhanced to Rs.2,85,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The first 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.4199 of 2008, on the file of the Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai. On such deposit, the appellants and the second respondent are permitted to withdraw their respective share of the award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

mtl

To

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



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

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+1cc to Mr.K.Moorthy, Advocate, S.R.No.30084

+1cc to Mr.N.M.Muthurajan, Advocate, S.R.No.30645

C.M.A.No.2675 of 2014

AK-II (CO)
RLP (06/09/2021)