



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2021

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CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3667 of 2019

1.Muthammal
2.Manjula
3.Mohan

...Appellants / Petitioners

Vs

1.M.Sekar
2.The Managing Director
State Express Transport
Corporation Limited
Chennai.

...Respondents / Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 28.08.2012 made in M.C.O.P.No.313 of 2011 on the file of Motor Accident Claims Tribunal, Principal District Court, Namakkal.

For Appellants : Mr.A.Sathish Kumar
for Mr.C.Thangaraju

For R1 : No appearance

For R2 : Mr.K.Kathiresan

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 28.08.2012 made in M.C.O.P.No.313 of 2011 on the file of Motor Accident Claims Tribunal, Principal District Court, Namakkal.

2.The appellants are claimants in M.C.O.P.No.313 of 2011 on the file of Motor Accident Claims Tribunal, Principal



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District Court, Namakkal. They filed the said claim petition claiming a sum of Rs.15,00,000/- as compensation for the death of one Selvam @ Muthuselvam, who died in the accident that took place on 14.08.2010.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1st respondent, the driver of the bus belonging to the 2nd respondent and directed the 2nd respondent/Transport Corporation to pay a sum of Rs.4,30,000/- 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 at the time of accident, the deceased was working as a heavy vehicle driver and was earning a sum of Rs.15,000/- per month. The appellants have marked driving license of the deceased as Ex.P4 to prove the avocation. The Tribunal without considering the same, erred in fixing a meagre sum of Rs.5,000/- per month as notional income of the deceased. The deceased was aged 25 years at the time of accident. The Tribunal ought to have granted 40% enhancement towards future prospects. The Tribunal erred in applying multiplier '13' taking into consideration the age of the mother of the deceased instead of '18'. The Tribunal has not awarded any compensation towards loss of estate. The amounts awarded by the Tribunal towards 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 2nd respondent/Transport Corporation contended that the appellants failed to produce any document to prove the income of the deceased. In the absence of any material to prove the income of the deceased, the Tribunal fixed a sum of Rs.5,000/- per month as notional income of the deceased, 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.



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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	3,90,000	11,34,000	Enhanced
2.	Loss of love and affection to the appellants	30,000	40,000	Enhanced
3.	Funeral expenses	10,000	15,000	Enhanced
4.	Loss of estate	-	15,000	Granted
	Total	4,30,000	12,04,000	Enhanced by Rs.7,74,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.4,30,000/- is hereby enhanced to Rs.12,04,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. It is made clear that the appellants are not entitled for any interest for the delay period on the amount of Rs.7,74,000/- enhanced by this Court as per the order of this Court dated 17.09.2019 made in C.M.P.No.16093 of 2019 in C.M.A.SR.No.82713 of 2019. The 2nd 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 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

// True Copy //

Sub Assistant Registrar

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To

The Principal District Judge,
Motor Accident Claims Tribunal,
Namakkal.

+2ccs to Mr.C.Thangaraju, Advocate SR.No.4433

C.M.A.No.3667 of 2019

NRL(CO)
RVM(08/09/2021)