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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.1923 OF 2020

(THROUGH VIDEO CONFERENCING)

Vijaya

... Appellant/
Petitioner

vs.

1. The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
12, Ramakrishna Road, Salem 636 007.
2. Bharathi
3. Minor Divya
Rep.by her next friend/guardian/
mother Bharathi, Marupatti,
Erumapatti Post, Namakkal District.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.02.2020 made in M.C.O.P.No.368 of 2018 on the file of the Motor Accident Claims Tribunal (Special District Judge) Salem.

For appellant : Mr.T.S.Arthanareeswaran

For R1 : Mr.D.Raghu

For R2 & R3 : No Appearance

J U D G M E N T

The claimant is the appellant in this Civil Miscellaneous Appeal. The appellant is aggrieved by the impugned Judgment and



decree dated 17.02.2020 passed by the Motor Accident Claims Tribunal (Special District Judge) Salem in M.C.O.P.No.368 of 2018.

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2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.15,82,200/- together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, to the appellant/claimant.

3. The break up of the amount awarded by the Lower Court are summarised below:-

S.No.	Heads	Amount awarded by the Tribunal
1	Loss of dependency (Rs.8,400 x 12x15)	Rs. 15,12,200/-
2	Loss of love and affection	Rs. 40,000/-
3	Loss of estate	Rs. 15,000/-
3	Funeral expenses	Rs. 15,000/-
Total		Rs. 15,82,200/-

4. In this civil miscellaneous appeal, the appellant/claimant seeks for enhancement of compensation.

5. The case of the appellant is that on 13.06.2016 at about 5.50 p.m. while the deceased Rameshkumar was riding a motor cycle bearing Reg.No.TN.34.M.8354, the bus bearing Reg.No.T.N.27.N.1676 driven by its driver allegedly in a rash and negligent manner and hit him, as a result of which, the deceased Rameshkumar sustained injuries and died on the same day.

6. The learned counsel for the appellant submits that the deceased Rameshkumar was aged about 36 years and was having milk business and earning a sum of Rs.20,000/- p.m. Therefore, the Tribunal ought to have awarded compensation by considering the income of Rs.20,000/- p.m. Therefore, he prayed for enhancement of compensation.



7. Defending the impugned Judgment and decree, the learned counsel for the 1st respondent Transport Corporation submits that the impugned Judgment and decree is well reasoned and requires no interference. He submits that the appellant has not produced to prove the income of Rs.20,000/- p.m. It is therefore submitted the Tribunal has correctly fixed the monthly income of Rs.9,000/- for computing the aforesaid compensation.

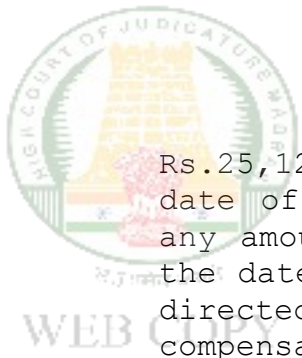
8. It is further submitted that the deceased Rameshkumar and the 2nd respondent were estranged husband and wife and had divorced and therefore the Tribunal has wrongly awarded compensation towards loss of consortium. He has also questioned that apportioning the amount payable to the appellant, 2nd and 3 respondents.

9. I have considered the arguments advanced by the learned counsel for the appellant and the 1st respondent - Transport Corporation and I have also perused the impugned Judgment and decree passed by the Tribunal.

10. In my view, the notional income of Rs.9,000/- p.m. is very low. The Tribunal ought to have considered atleast a sum of Rs.12,500/- p.m. as the income of the deceased. There are no records to indicate that the 1st appellant and the deceased were either estranged or divorced. Considering the fact that the accident is of the year 2016, therefore, the compensation awarded by the Tribunal is re-computed as follows:

Loss of dependency (Rs.12,500 + 40% x 12x15x3/4)		Rs.23,62,500
Loss of consortium to the appellant and 2 nd respondent		Rs.80,000
Loss of love and affection		Rs.40,000
Loss of estate		Rs.15,000
Funeral expenses		Rs. 15,000
Total		*Rs.25,12,500

11. The 1st respondent - Transport Corporation is therefore directed to deposit the amount of compensation of



Rs.25,12,500/- together with interest at 7.5% per annum from the date of the claim petition till the date of such deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation.

12. Since the deceased Rameshkumar and the second respondent had already been divorced, therefore, the 2nd respondent is not entitled to any compensation.

13. On such deposit, the appellant/claimant is entitled to a sum of Rs.16,75,000/-, the 3rd respondent minor is entitled to a sum of Rs.8,37,500/-. The appellant is permitted to withdraw her respective shares together with proportionate interest and cost, less any amount already withdrawn, by filing suitable application before the Tribunal.

14. The share of the minor 3rd respondent shall be deposited by the Tribunal in anyone of the nationalised Banks under re-investment scheme till she attains majority. The 2nd respondent, who is the mother /guardian of the minor, is permitted to withdraw the accrued interest from the deposit of the minor once in three months directly from the said Bank. On attaining the age of majority, the 3rd respondent may be permitted to withdraw her respective share by filing suitable application before the Tribunal.

15. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above observations. No cost.

Sd/-
Deputy Registrar (P.A)

//True Copy//

Sub Assistant Registrar

kkd



To:-

The Motor Accidents Claims Tribunal,
(Special District Judge) Salem.

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The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.D.Raghu, Advocate, S.R.No.25173

C.M.A.No.1923 of 2020

PM(CO)
CS/24/11/2021