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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.02.2021

CORAM::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.NO.1547 OF 2017

1. Srinivasan,
S/o.Late Kandasamy,
2. S.Jeeva,
W/o.K.Srinivasan,
3. S.Arun Prabhakar,
S/o.K.Srinivasan,
4. S.Ajay,
S/o.K.Srinivasan,
Appellants 1 to 4 are
residing at No.20, B.T.C.Road,
Saidapet, Vellore - 632 012.

Now residing at
No.156/2, Pillayar Koil Street,
Vanapdi Village, Walajah Taluk,
Vellore District.

... Appellants/Petitioners

/versus/

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division - II,
Sathuvachari,
Vellore - 632 009.

... Respondent/Respondent

Prayer:

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the decree and judgment dated 07.01.2016 in M.A.C.T.O.P.No.120 of 2015 on the file of Motor Accident Claim Tribunal, Sub-Court, Ranipet, Vellore District.

For Appellants : Mr.K.Gurusamy Raja

For Respondent : No appearance



J U D G M E N T

The appeal is filed against the award passed by the Tribunal. The claimants are the appellants herein seeking enhancement of compensation.

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2. The facts of the case is that, on 18.06.2014 at about 5.10 p.m when the deceased Arjun was riding his two wheeler bearing registration No.TN-23-BF-6600 along Vellore - Arcot main road between Sathuvachari - Kagithapattarai near Vinayaka Maligai Kadi, a passenger bus owned by the respondent herein bearing registration No.TN-23-N-1902 plying along the route No.7.F.M.,L.S.S dashed the two wheeler of Arjun. In the said impact, the Arjun was thrown out from the vehicle and sustained grievous injury. He was taken to Christian Medical College Hospital, Vellore, for treatment but declared died on the way. Claim petition for a sum of Rs.75,00,000/- was filed by the parents of the deceased and his brothers, against the Transport Corporation alleging that the accident occurred due to negligence of the Transport Corporation bus driver.

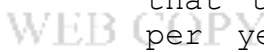
3. The Transport Corporation filed counter denying the liability and alleging that the accident took place only due to negligence of the deceased Arjun and also quantum of compensation was questioned as excessive.

4. Before the Tribunal, the claimants marked 13 Exhibits (Ex.P.1 to Ex.P.13) mainly Ex.P.13 the fees receipts issued by S.R.M. University to indicate the deceased got admission in Engineering course and paid his 1st year fees and unfortunately, he died before he could pursue his studies.

5. The Tribunal held that the deceased was 17 years old and he was at the verge of joining Engineering course and therefore, he cannot be treated as a person having source of income or capacity to earn. Hence, notional income of Rs.30,000/- per year was fixed for computing the loss of income. A sum of Rs.6,75,000/- was awarded by the tribunal after applying multiplier method.

6. In this appeal, the Learned Counsel appearing for the appellant would submitted that the deceased had a very bright future prospects with good scope. He got admission in S.R.M University to pursue the Civil Engineering course. He is the Diploma holder in Computer Application and a good sportsman. Therefore, the Tribunal ought to have fixed atleast Rs.12,000/- as income per month.

7. The Learned Counsel appearing for the respondent would submit that in the absence of any material evidence to show his



8. This Court, after considering the evidence placed, holds that the Tribunal erred in fixing a merger sum of Rs.30,000/- per year as notional income of the deceased. No doubt, the deceased was 17 years old at the time of accident and he had not joined the Engineering College and therefore, he cannot be treated par with an Engineering graduate to assess his income. However, in the light of the evidence adduced by the claimant, his potential of earning with good future prospect cannot be underestimated. Therefore, this Court fixed the monthly income of the deceased Arjun at Rs.7,500/- per month with 40% future prospects. Accordingly, the award of the tribunal is modified as below:-

9. The award of the Tribunal is enhanced to Rs.12,44,000/- with interest at the rate of 7.5% p.a from the date of petition till the date of realisation. The Transport Corporation is directed to deposit the enhanced award amount with interest (excluding delay period, if any) within a period of eight weeks from the date of receipt of a copy of this order.

1 st & 2 nd claimants	Rs.4,00,000/- each
3 rd & 4 th claimants	Rs.2,22,000/- each

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proper application, less any amount already withdrawn by them. Accordingly, the Civil Miscellaneous Appeal No.1547 of 2017 is partly-allowed. No costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bsm

To:-

1. The Subordinate Judge,
The Motor Accident Claim Tribunal,
Ranipet, Vellore District.

Copy To

The Section Officer,
V.R.Section, High Court,
Madras.

+1cc to Mr.G.Rajan, Advocate, S.R.No.8941

C.M.A.No.1547 of 2017

SSD(CO)
CS/08/10/2021