



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

C.M.A (MD) No. 1365 of 2010

Suriyakala

: Appellant/Claimant

Vs.

1. State Express Transport Corporation,
rep. by its Managing Director,
Pallavan Salai,
Chennai.

2. Balu

: Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, to allow the appeal by set aside the judgment and decree of the Learned Motor Accident Claims Tribunal (Principal Sub-Court), Kumbakonam in MCOP No. 289 of 2008, dated 15.06.2010 and enhance the compensation amount arrived by the Tribunal.

For Appellant

: Mr. K. M. Karunakaran

For R1

: Mr. P. Prabakaran

JUDGMENT

Dissatisfied with the award passed by the Motor Accident Claims Tribunal (Principal Sub-Court), Kumbakonam made in M.C.O.P. No. 289 of 2008, the claimant has come up with this appeal for enhancement of compensation.

2. Heard Mr. K. M. Karunakaran, learned counsel appearing for the appellant and Mr. P. Prabakaran, learned counsel appearing for the first respondent and perused the materials available on record.

3. This is a case of fatal accident. The appellant is the wife of the second respondent. Their child aged about 1 ½ years died in an accident, which had taken place on 02.06.2007. Though, it was contended by the learned counsel appearing for the appellant that they were living separately, the Tribunal found that both were living together and even after filing of the claim petition, they begotten a child. The Tribunal found that the accident happened only due to the negligence of the driver of the first respondent/Transport Corporation. Considering the age of the deceased, the Tribunal has awarded a sum of Rs. 1,000/- for transportation, Rs. 1,000/- for loss of articles. Rs. 5,000/- for funeral expenses and Rs. 60,000/- for loss of love and affection.

4. The learned counsel for the appellant would argue that the amount awarded under the loss of income is very low and the amount



has to be enhanced. In this regard, I heard the learned counsel appearing for the second respondent.

5. Considering the facts of this case, the amount is enhanced as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of love and affection	60,000	80,000	enhanced
2.	For funeral expenses	5,000	10,000	enhanced
3.	For Transportation	1,000	5,000	enhanced
4.	For loss of articles	1,000	5,000	enhanced
	Total	Rs.67,000	Rs.1,00,000/-	By enhancing a sum of Rs.33,000/-

6. In the result, this Civil Miscellaneous Appeal is allowed, enhancing the award of the Tribunal from Rs.67,000/- to a sum of **Rs.1,00,000/-**. The appellant is entitled to a sum of **Rs.75,000/-** and the second respondent is entitled to a sum of **Rs.25,000/-** along with interest @ 7.5% per annum from the date of petition till date of realization with proportionate costs.

7. The appellant-claimant is directed to pay the additional Court Fees, if any, within a period of **two weeks** from the date of receipt of a copy of this judgment. The first respondent shall deposit the modified award amount of Rs.1,00,000/- with 7.5% interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any. On such deposit, the claimant and the second respondent are entitled to withdraw the award amount in the ratio as stated above by filing formal petition before the Tribunal. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Subordinate Judge,
The Motor Accident Claims Tribunal, Kumbakonam.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2c)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-11313[F] dated
16/03/2021)

+1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-11391[F] dated
16/03/2021)

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15.03.2021

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