IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.546 of 2013

1.B.Meera
2.Minor B.Aravind
3.Minor.Mohandos @ Ajit
4.T.Saraswathy
5.P.Thangaraj
(Minors 2 and 3 represented by their mother B.Meera, the next friend and natural guardian) .. Appellants/Petitioners

Vs.

The Managing Director
Andra Pradesh State Road Transport Corporation Limited
Hydrabad. .. Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.08.2011 made in M.C.O.P.No.591 of 2000 on the file of Motor Accident Claims Tribunal, Sub Court, Kancheepuram.

For Appellants : Mr.N.Veerasamy

For Respondent : Ms.G.V.Shoba

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 25.08.2011 made in M.C.O.P.No.591 of 2000 on the file of Motor Accident Claims Tribunal, Sub Court, Kancheepuram.

2.The appellants are claimants in M.C.O.P.No.591 of 2000 on the file of Motor Accident Claims Tribunal, Sub Court, Kancheepuram. They filed the said claim petition claiming a sum of Rs.30,63,000/- as compensation for the death of one T.Murugababu @ T.Babu, who died in the accident that took place on 28.02.2000.

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 respondent/Transport Corporation and directed the respondent to pay a sum of Rs.6,50,000/- 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 doing silk saree business and was also working as a Manager in Sowdambiga Electronics, Kancheepuram and was earning a sum of Rs.15,000/- per month. To prove the same, the appellants have marked the income tax returns as Ex.P11. The Tribunal without considering the same, fixed only a meagre sum of Rs.3,000/- per month as contribution of the deceased to his family. The deceased was aged 32 years at the time of accident. The Tribunal has not granted any enhancement towards future prospects. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the appellants have not produced any document to prove that the deceased was earning a sum of Rs.15,000/- per month at the time of accident. In the absence of any evidence with regard to monthly income of the deceased, the Tribunal fixed a sum of Rs.3,000/- as the monthly contribution of the deceased. 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.

7.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondent/Transport Corporation and perused the entire materials available on record.

8.From the materials on record, it is seen that it is the contention of the appellants that at the time of accident, the deceased was doing silk saree business and was also working as a Manager in Sowdambiga Electronics, Kancheepuram and was earning a sum of Rs.15,000/- per month. The appellants have marked the income tax returns for the assessment year 2000-2001 as Ex.P11 to prove the same. The Tribunal rejected Ex.P11 on the ground that the income tax returns was filed by the father of the deceased after his death, previous income tax return was not filed and fixed a sum of Rs.3,000/- as monthly contribution of the deceased to his family. The appellants have not produced any document to show that the deceased was earning a sum of Rs.15,000/- per month at the time of accident. The accident is of the year 2000. A sum of Rs.3,000/- fixed by the Tribunal as monthly contribution of the deceased to his family, is meagre. Hence, a sum of Rs.4,000/- per month is fixed as notional income of the deceased. As per Ex.P6/birth certificate, the deceased was aged 33 years at the time of accident. The Tribunal applied multiplier '17', which is not correct. As per the judgment of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC (Sarla Verma vs. Delhi Transport Corporation), the correct multiplier applicable is '16'. The Tribunal has not granted any enhancement towards future prospects. As per the judgment of the Hon'ble Apex Court reported in 2017 (2) TN MAC 609 (SC) [National Insurance Co. Ltd., Vs. Pranay Sethi and others], the appellants are entitled to 40% enhancement towards future prospects. There are five claimants and 1/4th has to be deducted towards personal expenses. Thus, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.8,06,400/- (Rs.4,000/- + 1600 [Rs.4,000/- X 40%] X 12 X 16 X 3/4). The amounts awarded by the Tribunal towards loss of consortium and funeral expenses are meagre and hence, the same are enhanced to Rs.40,000/- and Rs.15,000/- respectively. The Tribunal granted a sum of Rs.5,000/- towards loss of love and affection, which is meagre. Hence, a sum of Rs.40,000/- is awarded towards loss of love and affection to the minor children, the appellants 2 and 3 and Rs.10,000/- each is awarded towards loss of love and affection to the parents of the deceased, the appellants 4 and 5. The Tribunal has not awarded any compensation towards loss of estate and hence, a sum of Rs.15,000/- is awarded towards loss of estate. A sum of Rs.3,000/- awarded by the Tribunal towards transportation is just and reasonable and hence, the same is hereby confirmed. 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 or reduced
1.	Loss of dependency	6,12,000	8,06,400	Enhanced
2.	Loss of love and affection to the appellants 2 and 3	5,000	40,000	Enhanced
3.	Loss of love and affection to the appellants 4 and 5	-	20,000	Granted
4.	Loss of consortium	15,000	40,000	Enhanced
5.	Funeral expenses	10,000	15,000	Enhanced
6.	Transportation	3,000	3,000	Confirmed
7.	Loss of estate	-	15,000	Granted
	Total	6,45,000	9,39,400	Enhanced by Rs.2,94,400/-

Though the Tribunal arrived at a sum of Rs.6,45,000/- as compensation, it has awarded a sum of Rs.6,50,000/- as compensation to the appellants.

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,50,000/- is hereby enhanced to Rs.9,39,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent/Transport Corporation is directed to deposit the enhanced 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 1, 4 and 5 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. The share of the minors/appellants 2 and 3 is directed to be deposited in any one of the Nationalised Banks till the minors attain majority. The 1st appellant being the mother of the minor appellants 2 and 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minors. No costs.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

kj

To

1.The Motor Accident Claims Tribunal
Subordinate Judge
Kancheepuram.

Copy to:
The Section Officer
V.R.Section
High Court, Chennai.

+1cc to Mr.N.Veerasamy, Advocate SR.No.3230
+1cc to M/s.G.V.Shoba, Advocate SR.No.2961

C.M.A.No.546 of 2013

SR(CO)
CB(07/03/2022)