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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A. No.3550 of 2019

1.B.Maheswari
2.Niresh C.V.Balasubramane
3.C.B.Shuruthi Lakshmi ... Appellants/Petitioners

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Chennai - 600 002. ... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 01.04.2019 made in M.C.O.P.No.2676 of 2015 on the file of the Motor Accident Claims Tribunal, (VI Small Causes Court), Chennai.

For Appellants : Mr.K.Varadhakamaraj

For Respondent : Dr.S.S.Swaminathan

J U D G M E N T

The claimants before the Motor Accident Claims Tribunal (VI Small Causes Court,) Chennai, has filed the instant Appeal seeking an enhancement of the award passed by the Tribunal below.

2. The claimants had filed M.C.O.P.No.2676 of 2015 before the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai seeking compensation for the death of one C.V.Balasubramane, the husband of the first claimant and father of claimants 2 and 3, in a road traffic accident that took place on 24.11.2014. A total sum of Rs.1,00,00,000/- was sought as compensation.



3. The occupation of the deceased was shown as practicing law. The deceased was a pedestrian at the Vadapalani bus terminus. The bus belonging to the respondent Transport Corporation, was proceeding on the Arcot road, in a East West direction. The driver of the bus had driven the same in a rash manner whereby it had turned towards the bus terminus and hit the deceased, who on account of the impact had succumbed to the injuries on the very same day.

4. The respondent had filed counter inter-alia questioning the allegations of the claimants with reference to negligence and also contending that the amount claimed was on the very high side. Therefore, they sought to have the claim be dismissed.

5. The Tribunal below after consideration of the evidence, let in by both parties held that the accident happened only on account of the negligence of the driver of the respondent bus and therefore, awarded a sum of Rs.18,35,000/- as compensation. Although the claimants had stated that the deceased was earning over Rs.40,000/- to Rs.45,000/- per month through his profession, the same had not been proved. On the contrary, Ex.P5 would show that the deceased was earning Rs.29,139/- out of his business and Rs.4,42,267/- per annum being the income from out of all the properties. Since there was no proof of income and taking note of the age of the deceased, which was 63 years, the Tribunal below applying the decision of National Insurance Corporation of India Vs. Pranay Sethi and others arrived at notional monthly income of Rs.30,000/- and ultimately the Tribunal had worked out an annual income of Rs.2,40,000/- after deducting 1/3rd towards personal expenses and arrived at loss of dependency as Rs.16,80,000/-. This order is sought to be challenged by the claimants by contending that the Tribunal had not taken into account the income earned by the deceased at Rs.4,42,267/- per annum as per Ex.P5. This is the only ground of challenge.

6. The learned counsel for the respondent would contend that the Tribunal has extensively discussed the amounts that would be payable to the claimants by applying various judgments of the Hon'ble Apex Court. The respondent did not have an objection to the amount awarded under the various heads and would also submit that the Appellants cannot seek to enhance the compensation, as the Tribunal below had rightly arrived at monthly income of Rs.30,000/- . He would contend that the claimants, who state that the deceased was an Advocate, has not produced any documents to substantiate the same.



7. Heard the learned counsels appearing for both sides.

8. The entire arguments of the claimants is based on Ex.P5, which is the Income Tax Returns. A perusal of the same would show a sum of Rs.2,62,500/- as income from the properties and a sum of Rs.29,139/- under the head of business income. However, no details of the business is given and it is also to be noted that no amounts under the head of professional income has been provided. Therefore, the contention of the claimants that the first Appellant's husband was working as an Advocate and earning a considerable sum of money cannot be countenanced.

9. Therefore, this Court has to only confirm the Judgment and Decree passed by the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai. Accordingly, the Civil Miscellaneous Appeal is dismissed and the the Judgment and Decree dated 01.04.2019 made in M.C.O.P. No.2676 of 2015 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai is hereby confirmed. No Costs.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

ab/ssn
To

The Motor Accident Claims Tribunal,
(VI Small Causes Court),
Chennai.

+1cc to M/s.K.Varadhakamaraj, Advocate Sr.11777
+1cc to M/s.S.S.Swaminathan, Advocate Sr.11491

C.M.A.No.3550 of 2019

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srg 24/03/2022