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C.M.A No.139 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.139 of 2022

1.Nalini

2.M.Srinivasan

... Appellants

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan House,
Anna Salai,
Chennai-600 002.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to allow this appeal and enhance the amount awarded in M.C.O.P.No.5330 of 2017 dated 26.07.2021 on the file of the Motor Accident Claims Tribunal, (IV Small Causes Court), Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.Anton Dhanasekaran



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JUDGMENT

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A certain Subash was pursuing his 12th Standard when he died in a road accident that took place on 11.08.2017 at around 08:50 hours, while he was traveling in a bus bearing Registration No.TN 01 N 8847 belonging to the respondent corporation. Alleging that the rash and negligent driving of the bus driver, his parents had approached the Tribunal with M.C.O.P.No.5330 of 2017 for a total compensation of Rs.20,00,000/-. The Tribunal, however, chose to award a sum of Rs.10,87,000/- on multiple heads. The chief component in the awarded sum is the compensation awarded under the head loss of dependency. The Tribunal had determined it at Rs.9,72,000/-.

2. Aggrieved by the inadequacy of compensation awarded for loss of dependency, the claimants have preferred this appeal.

3. Mr.K.Varadha Kamaraj, the learned counsel for the appellants, submitted that the prospects and dreams of a young boy of 17 years were lost, and the Tribunal arrived at a loss of dependency by notionally fixing his income at Rs.6,000/-. The claimant had all the prospects of earning



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more, as he was prosecuting his 12th Standard. The fact that the boy was only a student at the relevant time does not make his life less precious to quantify, he submitted.

4.Mr.Anton Dhanasekaran, the learned counsel for the respondent submitted that the boy was traveling in the foot board on the bus and fell off. Thereby, he had contributed to his own demise in equal measure. This apart, he submitted that the Tribunal had assessed the future prospects by adding 50% to the notional income of Rs.6,000/-, which is not permissible within the frame out of *Sarala Varma*.

5.There is merit on both sides. Turning to the respondent's contention, this Court does find that the Tribunal ought to have restricted the future prospects to 40%. Turning to the mode of accident, there is nothing on material to indicate that the victim of the accident had invited it.

6.Turning to the claim of the appellants, this Court does consider that assigning a notional income of Rs.6,000/- per month to a student merely because he is a student may result in a significant undervaluation of his real value. In the absence of supporting material, this Court is



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constrained to fix Rs.9,000/- as a notional income, and after adding 40% towards future prospects and deducting 50% towards his personal expenditure, and applying a multiplier of 18, the total compensation payable under the head 'loss of dependency' would be Rs.13,60,800/-. After adding other general heads of compensation, the total compensation payable would be Rs.14,75,800/-. The respondent is now directed to deposit the entire compensation amount with interest at 7.5% per annum from the date of the claim petition till the date of deposit, less any such amount if it has already deposited, within a period of twelve (12) weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw their share of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. The claimants/appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount.

7.The Civil Miscellaneous Appeal stands partly allowed. No costs.

30.10.2023

Anu

Index: Yes/No

Speaking Order / Non-Speaking Order



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Neutral Citation: Yes / No

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To

1.Motor Accident Claims Tribunal,
(IV Small Causes Court), Chennai.

2.The Managing Director,
Metropolitan Transport Corporation,
Pallavan House,
Anna Salai,
Chennai-600 002.



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N.SESHASAYEE, J.

Anu

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