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C.M.A.No.1184 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1184 of 2020

1.Kaliammal
2.Aadhimoolam
3.Mariappan
4.Rani
5.Govindasamy
6.Krishnasamy

... Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
No.37, Mettupalayam Road,
Coimbatore.

... Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the civil miscellaneous appeal and set aside the judgment and decree made in M.C.O.P.No.762 of 2018 dated 01.10.2019 on the file of the Motor Accidents Claims Tribunal (Special District Judge), Dharmapuri and enhance the award.

For Appellants : Mr.S.Sathiaselvan
For Respondent : Mr.M.Arun
for Mr.A.Sundaravadhanam



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This appeal has been filed by the appellants/ claimants challenging the judgment and decree passed in M.C.O.P.No.762 of 2018 dated 01.10.2019 on the file of the Motor Accidents Claims Tribunal (Special District Judge), Dharmapuri.

2.The brief facts of the case is that on 18.04.2018 at about 3.15p.m., the deceased Chinnakolandai was riding the two wheeler bearing Registration No.TN 29 D 1328 along with his wife Kaliasammal as a pillion rider from Krishnapuram to M.Oddapatty Road near Jokiarkottai. At that time the Bus bearing Registration No.TN 38 N 1912 belonging to the TNSTC came in a rash and negligent manner towards Krishnapuram and dashed against the two wheeler, due to which, the deceased lost his life.

3.Thereafter, the dependants of the deceased Chinnakolandai/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.15 Lakhs as compensation. After adjudication, the Tribunal awarded a sum of Rs.5,08,800/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit and costs. Aggrieved by the



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same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants submitted that the deceased was an Agriculturist and was earning more than Rs.20,000/- per month. The Hon'ble Apex Court in Syed Sadiq case fixed Rs.6,500/- as the notional income of the vegetable vendor in the year 2008. In the present case, the accident is of the year 2018, however, the Tribunal has fixed only a sum of Rs.6,000/- as the notional monthly income of the deceased and awarded compensation, which is very meagre. Hence, the appellants are entitled for enhancement in compensation.

5.The learned counsel appearing for the respondent Transport Corporation submitted that the claimants have not produced any proof for the income of the deceased. Further, the compensation amount awarded by the Tribunal is just and reasonable and warrants no interference.

6.Heard the learned counsel appearing for the appellants as well



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as the learned counsel appearing for the respondent and perused the materials available on record.

7. Admittedly, on 18.04.2018 at about 3.15 p.m., the deceased Chinnakolandai was riding the two wheeler along with his wife Kaliasammal as a pillion rider from Krishnapuram to M.Oddapatty Road near Jokiarkottai. At that time the Bus belonging to the TNSTC came in a rash and negligent manner towards Krishnapuram and dashed against the two wheeler, due to which, the deceased lost his life.

8. The accident and the manner in which the accident happened are not disputed. The only dispute is with regard to the quantum of compensation awarded by the Tribunal.

9. The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.2,70,000/- for compensation for pecuniary loss, Rs.15,000/- for funeral expenses, Rs.40,000/- for consortium, Rs.15,000/- for loss of estate, Rs.1,47,000/- for medical expenses, Rs.21,800/- for transport charges and arrived at a total compensation of Rs.5,08,800/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.



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10.The Hon'ble Apex Court in Syed Sadiq case fixed Rs.6,500/- as the notional monthly income of the vegetable vendor in the year 2008. In the present case, the accident is of the year 2018. Hence, this Court fix Rs.10,000/- as the notional monthly income of the deceased and $\frac{1}{4}$ of the amount has to be deducted towards his personal expenses. The deceased was aged 70 years at the time of death and the Tribunal has rightly adopted the multiplier 5. Hence, the actual compensation for pecuniary loss works out to Rs.4,50,000/- [Rs.7,500/- X 12 X 5 = Rs.4,50,000/-]. This Court is of the opinion that some amount has to be awarded for love and affection. Accordingly, this Court awards a sum of Rs.2,40,000/- [Rs.40,000/- each] for love and affection. The amount awarded under the head funeral expenses and loss of estate, in the opinion of this Court, are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for funeral expenses is enhanced to Rs.20,000/- from Rs.15,000/- and the amount awarded for loss of estate is enhanced to Rs.20,000/- from Rs.15,000/-. The amount awarded under the heads medical expenses and transport charges are confirmed. Since this Court has awarded amount under the head loss of love and affection, the amount awarded under the



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head, loss of consortium is deleted.

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11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Compensation for pecuniary loss	Rs.2,70,000/-	Rs.4,50,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 20,000/-
3.	Loss of consortium	Rs. 40,000/-	---
4.	Medical expenses	Rs.1,47,000/-	Rs.1,47,000/-
5.	Love and affection	---	Rs.2,40,000/-
6.	Transport charges	Rs. 21,800/-	Rs. 21,800/-
7.	Loss of estate	Rs. 15,000/-	Rs. 20,000/-
	Total	Rs.5,08,800/-	Rs.8,98,800/-

12. The claimants are entitled to total compensation of Rs.8,98,800/- along with interest at the rate of 7.5% p.a. with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

13. The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.762 of 2018 dated 01.10.2019 by the Motor Accidents Claims Tribunal (Special District Judge), Dharmapuri, is modified to the above extent.



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14.The respondent Transport Corporation is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal (Special District Judge), Dharmapuri, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

15.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

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M.DHANDAPANI,J.
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To

1.The Motor Accidents Claims Tribunal (Special District Judge),
Dharmapuri.

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