IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.780 of 2022

1.Ganapathi
2.N.Narayanamma ... Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Salamedu, Villupuram-605 602.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Acct, 1988, seeking to set aside the award and enhance the compensation amount made in judgment dated 07.12.2020 made in M.C.O.P.No.199 of 2020 on the file of the Motor Accident Claims Tribunal and Special District Court for Motor Accident cases, Krishnagiri.

For Appellants : Mr.S.P.Yuaraj
For Respondent : Mr.S.Santhosakumar

JUDGMENT

The claimants in MCOP.No.199 of 2020 on the file of Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri are the appellants herein. They challenge the quantum of compensation awarded under the head of loss of dependency as awarded by the Tribunal.

2.On 01.01.2020 at about 14.30 hours, the victim was riding in the Motor Cycle bearing Regn.No.AP-03-BS-4422 and he met his end when a TNSTC Bus bearing Regn.No.TN-32-N-4408 dashed against him and he breathed his last on the way to the hospital. The parents of the victim preferred a claim for Rs.50,00,000/-, as against which the Tribunal has passed an Award for Rs.12,55,680/-. In arriving at a net value of compensation, the Tribunal has also deducted 10% towards contributory negligence on the victim himself. The details of the award are as below:

Sl.No.	***Heads***	***Amount awarded by the Tribunal***
1.	Loss of dependency	Rs.12,85,200/-
2.	Loss of estate	Rs.15,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Consortium	Rs.80,000/-
	Total	**Rs.13,95,200/-** After deduction of 10% = **Rs.12,55,680/-**

3.For assessing the compensation payable under the head loss of dependency, the Tribunal had reckoned the monthly income of the victim notionally at Rs.9,000/- and the Tribunal had added another 40% towards future prospects and after deducting 50% towards his personal expenditure, the Tribunal had arrived at a value of Rs.12,85,200/- under the head of loss of dependency.

4.Mr.S.P.Yuaraj, the learned counsel for the appellants submitted that the victim was running a small restaurant / cafeteria under the style of '*A.S.Gowdu Kabab Centre and Fast Food'*. This is not disputed by the respondent. In these circumstances, the choice of the Tribunal to fix the notional income of the victim at Rs.9,000/- is on the lower side.

5.Mr.S.Santhosakumar, the learned counsel for the respondent submitted that the appellants / claimants have not produced any material evidence to indicate the actual income earned by the victim of the accident.

6.The accident had taken place in 2020, and owing to the cost of living and standard of living in that year, it can be held that the notional income determined by the Tribunal is on the lower side.

7.Therefore, this Court considers that it will be fair and reasonable to fix Rs.14,000/- as monthly notional income of the victim. After adding another

40% towards future prospects, applying 17 as a multiplier and deducting 50% towards personal expenditure of the victim since he died as a bachelor, the total value of loss of dependency would be Rs.19,99,200/-. After adding the award amount awarded by the Tribunal on other conventional heads, it arrives at Rs.21,09,200/-. Out of this, if another 10% is deducted towards contributory negligence attributed to the victim, the total compensation amount would be Rs.18,98,280/-. The breakup is as below:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	Rs.12,85,200/-	Rs.19,99,200/-	enhanced
2.	Loss of estate	Rs.15,000/-	Rs.15,000	confirmed
3.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	confirmed
4.	Loss of consortium Rs.40,000x 2 =Rs.80,000/	Rs.80,000/-	Rs.80,000/-	confirmed
5.	**Grand Total**	**Rs.13,95,200/-** After deduction of 10% = **Rs.12,55,680/-**	**Rs.21,09,200/-** After deduction of 10% = **Rs.18,98,280/-**	Enhanced by Rs.6,42,600/-

8.The appeal is partly allowed and the Award of the Tribunal is modified, enhancing the compensation amount from **Rs.12,55,680/-** to **Rs.18,98,280**/-. The respondent-Transport Corporation is directed to deposit the said amount to the credit of M.C.O.P.No.199 of 2020 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants are permitted to withdraw the award amount falling to their share, along with proportionate interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn. The claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. No Costs.

09.11.2023

Anu
Index: Yes/No

Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

N.SESHASAYEE, J.

Anu

To

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Salamedu, Villupuram-605 602.

2.The Motor Accident Claims Tribunal
and Special District Court for Motor Accident cases,
Krishnagiri.

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