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C.M.A.No.105



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.105 of 2022

1.S.Renuka

2.T.Saravanan

... Appellants

Vs.

Tamil Nadu State Transport Corporation (VPM) Ltd.
Represented by its Managing Director
Vellore.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 praying against the judgment and decree dated 14.10.2019 made in M.C.O.P.No.607 of 2013 on the file of the Motor Accident Claims Tribunal, Principal Special Judge, Special Court under E.C. & NDPS Act, Chennai-104.

For Appellants : Mrs.Ramya V. Rao

For Respondent : Mr.T. Chandrasekaran

JUDGMENT

The appeal is filed by the appellants/claimants challenging the judgment and decree dated 14.10.2019 made in M.C.O.P.No.607 of 2013 on the file of the Motor Accident Claims Tribunal, Principal Special Judge, Special Court under E.C. & NDPS



Act, Chennai-104.

C.M.A.No.104



2. The brief facts leading to the appeal are that, on 23.08.2012 at about 15.30 hours, while the mother of the deceased was travelling along with her minor daughter Saritha in the Transport Corporation bus bearing Registration No.TN-23-N-2129 from West to East at Grant West Trunk Road, opposite to Primay Agricultural Co-operative Bank, Rajakulam, the driver of the bus belonging to the Transport Corporation drove the same in a rash and negligent manner, dashed against the stationary lorry bearing Registration No.TN-73 D 2703, which was parked on the left extreme side of the road, causing grievous injuries to the mother and fatal injuries to the minor daughter, who was aged 3 ½ years at the time of accident. The claimants are father and mother of the deceased minor child and therefore, they have filed the claim petition seeking a sum of Rs.30,00,000/- as compensation.

3. The claim petition was contested by the Transport Corporation and they filed a detailed counter denying all the averments raised in the claim petition including negligence, liability and quantum of compensation.

4. Before the claims Tribunal, the 1st appellant/1st claimant, mother of the deceased examined herself as P.W.1, Dr.Saravanabhavanandam was examined as P.W.2 and Exs.P1 to P24 were marked on the side of the appellants/claimants. On the

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side of the respondent/Transport Corporation, Superintendent was examined as R.W.1 and no document was filed.

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5. The claims Tribunal on an assessment of entire evidence on record, rendered the finding of the negligence against the driver of the Transport Corporation, assessed the compensation at Rs.5,70,000/- along with 7.5% interest and mulcted the entire liability on the respondent/Transport Corporation. Not satisfied with the quantum of compensation awarded by the claims Tribunal, the appellants/claimants have filed the above appeal for enhancement of compensation.

6. Learned counsel for the appellants/claimants submitted that pecuniary loss assessed by the Tribunal was meagre and further the amount awarded towards loss of love and affection to the appellants was not in consonance with the judgment of the Hon'ble Supreme Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and others* reported in (2017) 16 SCC 680.

7. Learned counsel for the respondent/Transport Corporation though disputed the assessment of pecuniary loss by the Tribunal, conceded that the loss towards love and affection is not in conformity with the judgment of the Hon'ble Supreme Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and others*



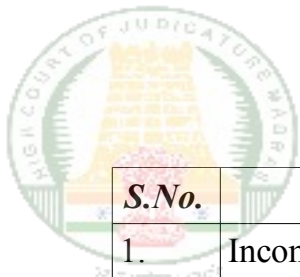
reported in (2017) 16 SCC 680.

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8. I have heard both the learned counsel and perused the materials placed on record.

9. The appellants/claimants, who are the parents of the deceased minor child aged about 3 ½ years, have filed the claim petition seeking compensation for the loss of their minor daughter. The Tribunal has fixed the notional income of the minor child at Rs.30,000/- per annum. The loss of a child can never be compensated in terms of money. In any event, the claimants as the parents have to be compensated for the death of their minor child. Considering that the claimants have lost their child in the accident, who would have been their support in their old age, the notional income of Rs.30,000/- per annum is increased to Rs.40,000/- per annum and the loss towards dependency is assessed at Rs.6,00,000/- (Rs.40,000/- X 15) by applying appropriate multiplier '15'. For loss towards love and affection, the appellants/claimants shall be entitled to Rs.40,000/- each. The appellants/claimants are further entitled to Rs.15,000/- each towards funeral expenses and loss of estate.

10. In view of the above discussion, the award of the Tribunal is modified as follows:



S.No.	Various Heads	Award of the Tribunal	Award of this Court
1.	Income	Rs.30,000/- per annum	Rs.40,000/- per annum
2.	Multiplier 15 is applied	Rs.30,000/- X 15 = Rs.4,50,000/-	Rs.40,000/- X 15 = Rs.6,00,000/-
3.	Loss of dependency	Rs.4,50,000/-	Rs.6,00,000/-
4.	Funeral expenses	Rs.20,000/-	Rs.15,000/-
5.	Loss of love and affection	Rs.1,00,000/- (Rs.50,000/- X 2)	Rs.80,000/- (Rs.40,000/- X 2)
6.	Loss of estate	-	Rs.15,000/-
Total Compensation		Rs.5,70,000/-	Rs.7,10,000/- enhanced amount Rs.1,40,000/-

11. In view of the above, the appellants/claimants are entitled to the compensation at Rs.7,10,000/- along with 7.5% interest. There shall be a direction to the respondent/Transport Corporation to deposit the compensation arrived at by this Court at Rs.7,10,000/- along with 7.5% interest, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants shall be entitled to withdraw the amount, as per the apportionment fixed by the Tribunal, by making proper application before the Tribunal.

12. The appeal is accordingly partly allowed. There shall be no order as to costs.

09.06.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

1.The Principal Special Judge
Motor Accidents Claims Tribunal, Chennai.
Special Court under E.C. & NDPS Act
Chennai-104.

2.The Section Officer,
V.R.Section,
High Court, Madras.

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