



WEB COPY



CMA.No.2180 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.2180 of 2018

S.Vatsala

Appellant

Vs

Metropolitan Transport Corporation Limited

by its Managing Director, Chennai-2

Respondent

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 01.06.2018, made in MCOP.No.5466 of 2014, by the Principal Special Judge, Special Court under EC and NDPS Act (MACT) Chennai.

For Appellant : Ms.A.Salomi

For Respondent : Mr.S.S.Swaminathan

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimant, against the judgement and decree, dated, 01.06.2018, made in MCOP.No.5466 of 2014, by the Principal Special Judge, Special Court under EC and NDPS Act (MACT) Chennai, for enhancement of compensation.
2. The claimant, who is the mother of the deceased, namely, S.Giridharan, has filed the claim petition before the Tribunal, seeking a compensation of Rs.30,00,000/- on various heads, for the death of her son, who died in a motor road accident, which took place on 02.07.2013 at about 07.30 hours. The claim petition was resisted, on various grounds, by the Respondent Transport Corporation, by filing a counter. On the side of the claimant, PW.1



CMA.No.2180 of 2018

and PW.2 were examined and Ex.P1 to Ex.P25 were marked. On the side of the Respondent Corporation, DW.1 was examined.

3. Finding that the deceased died in the alleged motor road accident due to the rash and negligent driving of the driver of the offending vehicle, belonging to the Respondent Transport Corporation, the Tribunal has awarded a total compensation of Rs.13,59,600/- with interest at 7.5% p.a. from the date of the claim petition till the date of realization, to be payable the Respondent Transport Corporation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Pecuniary Loss	1209600.00
2	Transportation Expenses	8000.00
3	Damages to Clothes	2000.00
4	Damages to Motor Cycle	10000.00
5	Loss of Love and Affection	100000.00
6	Funeral Expenses	15000.00
7	Loss to the Estate	15000.00
Total Compensation		1359600.00

Aggrieved by the quantum of compensation, this appeal has been filed by the claimant.

4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
5. As regards the negligence aspect, the Tribunal, considering the evidence on record, has held that there was negligent on the part of the driver of the offending vehicle, belonging to the Respondent Transport Corporation and that the deceased died in the alleged accident only due to the rash and negligent driving of the driver of the offending vehicle. Since the finding, recorded by the Tribunal, with regard to the actionable negligence, has not



CMA.No.2180 of 2018

WEB COPY

been assailed by the Respondent herein, the said finding of the Tribunal with regard to the negligence aspect, fixing the same on the part of the driver of the offending vehicle, is confirmed. As such, it is not necessary to narrate the entire facts in detail in respect of the accident. However, the dispute is only with regard to the quantum of compensation.

6. According to the learned counsel for the Appellant, the deceased was aged 20 years old and studying II Year B.A. Tamil Literature at Loyola College, Chennai, at the time of the accident and the Tribunal, for arriving at the compensation under the head of pecuniary loss, while adopting the correct multiplier of 18 and rightly adding 40% towards future prospects, has fixed a meagre amount of Rs.8,000/- towards the monthly notional income, which is not just and proper and hence, it needs to be enhanced.
7. According to the learned counsel for the 2nd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.
8. The deceased died, while he was riding his motor cycle due to the rash and negligent driving of the driver of the offending vehicle and at that time, he was aged 20 years old and studying II Year B.A. Tamil Literature at Loyola College, Chennai. After completing the degree, the deceased would have certainly earned a monthly salary of not less than Rs.12,000/- and hence, the monthly notional income arrived at by the Tribunal at Rs.8,000/- needs to be enhanced to Rs.12,000/- p.m. The proper multiplier is 18. If 40% is added, the monthly income would come to Rs.16,800/-. Since the deceased was a bachelor at the time of the accident, 50% towards his personal expenses is



CMA.No.2180 of 2018

to be deducted. After such deduction, the monthly income would come to Rs.8,400/-. Then, the total loss of dependency/pecuniary loss comes to Rs.18,14,400/- (Rs.8,400 x 12 x 18). However, the compensation of Rs.8,000/- towards transportation expenses and Rs.1,00,000/- under the head of loss of love and affection awarded by the Tribunal are reduced to Rs.5,000/- and Rs.40,000/- respectively. The compensation awarded under the other heads are confirmed. Thus, the claimant is entitled to a total compensation of Rs.19,01,400/- with interest at 7.5% p.a. from the date of the petition till the date of realisation.

9. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.19,01,400/-/- (Rupees nineteen lakhs one thousand four hundred only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Pecuniary Loss / Loss of Dependency	1814400.00
2	Transportation Expenses	5000.00
3	Damages to Clothes	2000.00
4	Damages to Motor Cycle	10000.00
5	Loss of Love and Affection	40000.00
6	Funeral Expenses	15000.00
7	Loss to the Estate	15000.00
Total Compensation		1901400.00

The Respondent Transport Corporation is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the entire



CMA.No.2180 of 2018

compensation amount with interest, by filing proper application. No costs.

WEB COPY

29.03.2023

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Srcm

To

1. The Principal Special Judge, Special Court under EC and NDPS Act (MACT)
Chennai
2. The Record Keeper, VR Section, High Court, Madras



WEB COPY



CMA.No.2180 of 2018

A.A.NAKKIRAN, J.

Srcm

CMA.No.2180 of 2018

29.03.2023