



C.M.A.No.3526 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2023

CORAM

THE HON'BLE MR.JUSTICE P.B.BALAJI

Civil Miscellaneous Appeal No.3526 of 2014

1. M.Punithavali
2. G.Mariyappan

..Appellants

-VS-

The Managing Director,
Metropolitan Transport Corporation
Chennai Ltd., Anna Salai,
Chennai-02.

..Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order dated 03.12.2013 passed in M.C.O.P.No.1905 of 2010 on the file of Motor Accident Claims Tribunal (Special Sub Court No.1) Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.S.Sivakumar

* * * * *

JUDGMENT

The claimants before the Motor Accidents Claims Tribunal in M.C.O.P.No.1905 of 2010 on the file of the Special Sub Court-1, Chennai, are the appellants herein.



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2. The said M.C.O.P. was filed for compensation in respect of the death of one M.Shanthanu, who died in a motor accident on 17.04.2010. The case of the parents, as claimants before the Tribunal, was that their son died only because of the rash and negligent driving of the MTC bus bearing Registration No.TN-01-N-4078. Their son was aged 17 years at the time of accident and therefore, claiming compensation under various heads, they approached the Tribunal seeking a sum of Rs.6,00,000/-.

3. The respondent/Transport Corporation filed a counter denying the averments and allegations made in the claim petition. The specific case of the respondent/corporation was that the deceased was travelling on the footboard and he lost his grip, fell down and sustained fatal injuries. It is, therefore, contended before the Tribunal that the Corporation was not liable to compensate for the death of the deceased, who was solely responsible for the accident.

4. Before the Tribunal, the mother of the deceased was examined as P.W.1 and one Mr.Harikrishnan was examined as P.W.2.



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Exs.P.1 to P.5 were marked on the side of the claimants. On the side of the respondent, that is Transport Corporation, one Mr.Amirthalingam was examined as R.W.1 and no documents were marked.

5. The Tribunal, on a careful reading of the oral evidence available before it and also various documents exhibited by the claimants, came to the conclusion that there is no negligence on the part of the deceased and the occurrence was only due to rash and negligent driving of the MTC bus.

6. Insofar as the compensation is concerned, the Tribunal awarded a total sum of Rs.2,43,500/-, out of which a sum of Rs.1,83,500/- was awarded to the mother and the remaining Rs.60,000/- was awarded to the father, the claimants 1 and 2 respectively. The said amount was to carry an interest of 7.5 % per annum from the date of the claim petition till the date of payment/deposit of the amount by the respondent/Corporation. Aggrieved by the award, especially on the ground of pecuniary loss, the parents, claimants before the Tribunal, have preferred this Civil Miscellaneous Appeal.



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7. This Court, heard Mr.K.Varadha Kamaraj, learned counsel for the appellants and Mr.S.Sivakumar, learned counsel for the respondent/Corporation.

8. On considering the rival submissions made by the learned counsel for the appellants and the respondent, this Court comes to the following findings. Being a case under Section 163A of the Motor Vehicles Act, 1988, the schedule to Section 163A, as it stood then prior to the Amendment Act 32 of 2019, ought to have been applied. However, the Tribunal has calculated the pecuniary loss fixing Rs.3,000/- as annual income and adopting a multiplier of 13. That apart, the Tribunal has also deducted 50% towards personal contribution expenses.

9. It is contended by the learned counsel for the appellants that the slab provides for Rs.40,000/- as the annual income for a person aged between 15 to 20 years. In the instant case, the deceased being 17 years at the time of accident, the multiplier of 16 ought to have been applied and not 13. The Tribunal has also erred in deducting



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50% towards personal expenses and considering that there were two dependants, namely, the father and the mother, the Tribunal ought to have deducted only one-third and not 50%.

10. This Court finds force in the said submissions. Accordingly, adopting the schedule to Section 163A, the pecuniary loss is re-worked in the manner as hereunder:

Fixing a sum of Rs.40,000/- as annual income and applying 16 as multiplier, the loss of income is arrived at Rs.6,40,000/- and deducting one-third towards personal expenses, the pecuniary loss is arrived at Rs.4,27,000/- (Rs.6,40,000/- (-) Rs.21,333/-).

11. Insofar as the other heads are concerned, namely, loss of love and affection, loss of estate and funeral expenses, this Court finds that the Tribunal has awarded a sum of Rs.5,000/-, Rs.2,500/- and Rs.2,000/- respectively. Considering the age of the parents, this Court does not find any reason to interfere with the compensation awarded under the said heads. Accordingly, a total sum of Rs.4,36,500/- (Rupees four lakhs thirty six thousand five hundred only) is awarded as compensation to be payable to the appellants/claimants.



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In the result, the Civil Miscellaneous Appeal is partly allowed enhancing the compensation amount from Rs.2,43,500/- as awarded by the Tribunal to a total sum of Rs.4,36,500/-. The respondent Corporation is directed to deposit the compensation amount of Rs.4,36,500/- (Rupees four lakhs thirty six thousand five hundred only) awarded by this Court, after deducting the amount already deposited if any, together with interest at the rate of 7.5% per annum from the date of claim petition, namely, 07.06.2010 till the date of deposit and costs, to the credit of M.C.O.P.No.1905 of 2010 on the file of Motor Accidents Claims Tribunal, Special Sub Court-I, Chennai, within a period of eight weeks from today. On such deposit being made, the claimants are permitted to withdraw their share as per the apportionment given by the Tribunal. The appellant/claimants are directed to pay necessary Court fee on the enhanced award amount, if any, within a period of two weeks from the date of receipt of a copy of this order. No costs.

24.03.2023

Speaking/Non-speaking order

Index : Yes / No

Internet : Yes / No

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To

The Motor Accident Claims Tribunal,
(Special Sub Court No.1) Chennai.



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P.B.Balaji, J.

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