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CMA No. 2326 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 2326 of 2023

1.G. Gowthami

2.Venkatesan

... Appellants

Versus

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
(Villupuram Division, Villupuram),
Rangapuram, Vellore.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P. No. 352 of 2016 dated 19.06.2018 on the file of the Motor Accidents Claims Tribunal, II Additional District and Sessions Judge, Ranipet, Vellore.

For Appellants : Mr. C. Prabakaran.

For Respondent : Mr. S.S. Santhosakumar.

J U D G M E N T

The claimants have preferred the instant appeal seeking enhancement of compensation in the award passed by the Tribunal in M.C.O.P. No.352 of 2016 dated 19.06.2018.



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2. According to the claimants / appellants, on 15.08.2016 at about 4 p.m., while the minor girl child and one Sumathi were travelling in a two wheeler as pillion riders in a public road, the driver of the bus belonging to the respondent corporation came in a rash and negligent manner and dashed the two wheeler, as a result of which, the minor child sustained fatal injuries and the said Sumathi sustained grievous injuries. Hence, two claim petitions were filed viz., one for the compensation for the injuries of the suffered by Sumathi and the other for compensation of the death of the minor child. The instant appeal relates to the death of the minor child.

3. The respondent filed a counter stating that the accident took place due to the negligence of the rider of the two wheeler; and that in any case, the compensation claimed was excessive and prayed for dismissal of the appeal.

4. The appellants examined PW1 and PW2 and marked Ex.P.1 to Ex.P.12. The respondent examined RW1 and marked Ex.R.1.



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5.The Tribunal after taking into consideration the oral and documentary evidence held that the accident took place due to the negligence of the driver of the bus belonging to the respondent and directed the respondent to pay a compensation of Rs.3,25,230/- to the appellants.

6.The learned counsel for the appellants submitted that the compensation awarded by the Tribunal is meagre. The learned counsel submitted that approach of the Tribunal in fixing the annual income at Rs.15,000/- and adopting multiplier 18 is erroneous and the Tribunal ought to have fixed higher annual income and ought to have adopted multiplier 15.

7. The learned counsel for the respondent, per contra, submitted that the compensation awarded by the Tribunal is just and reasonable and no interference is called for.

8.The only question that arises for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.



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9. On perusal of the records, it is seen that the finding of the Tribunal as regards negligence is not challenged by the respondent. As regards compensation, it is seen that the deceased in the instant case was aged 2½ years at the time of the accident. This Court has taken a consistent view, in such circumstances, that the annual income of the deceased minor child can be fixed between Rs.45,000/- to Rs.60,000/-. In the instant case, this Court is of the view that it would be just and reasonable to fix Rs.50,000/- as notional income per annum and the multiplier applicable is 15. Therefore, the compensation under the head pecuniary loss would be Rs.7,50,000/- (Rs.50,000 X 15). The appellants are each entitled to Rs.40,000/- under the head loss of love and affection and the same is enhanced to Rs.80,000/-. It is seen that the Tribunal had awarded Rs.10,000/- towards funeral expenses and the same is enhanced to Rs.15,000. Since no amount has been awarded towards loss of estate, Rs.15,000/- is awarded under the said head. The award under the head Medical bills is just and the same is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pecuniary loss	2,70,000	7,50,000	Enhanced
2.	Loss of Love and Affection	40,000	80,000	Enhanced
3.	Funeral Expenses	10,000	15,000	Enhanced
4.	Medical bills	5,230	5,230	Confirmed
5.	Loss of Estate	---	15,000	Granted
	Total	3,25,230	8,65,230	Enhanced by Rs.5,40,000/-.

10. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,25,230/- is hereby enhanced to Rs.8,65,230/-, together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The respondent/Transport Corporation is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellants are permitted to withdraw their respective shares of the award amount along with proportionate



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interest and costs, less the amount already withdrawn, if any as per the apportionment fixed by the Tribunal. The appellants are directed to pay the necessary Court fee, if any on the enhanced award amount. No costs.

29.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Motor Accidents Claims Tribunal
II Additional District and Sessions Judge,
Ranipet, Vellore.

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



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SUNDER MOHAN, J

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