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CMA.No.1877 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.1877 of 2023

1.M.Jaffar Ali

2.Mumtaj @ Mumtaj Begam

... Appellants

-Vs-

The Managing Director,
State Express Transport Corporation. Ltd,
No.2, Pallvan Salai,
Chennai 600 002.

...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.1837 of 2018 dt.07.07.2023 on the file of the Motor Accident Claims Tribunal/(I Additional District & Sessions Judge, Cuddalore).

For Appellants : Mrs.Ramya V.Rao
For Respondent : Mr.S.S.Santhosa Kumar

JUDGMENT

On 04.01.2018, young Sharmila Banu was killed when a motor cycle bearing Regn.No.TN 91 C 3585 in which she was riding as a pillion rider



CMA.No.1877 of 2023

was knocked down by a bus bearing Regn.No.TN 01 AN 0292, belonging to the respondent Corporation. Seeking compensation, her husband and mother approached the Motor Accident Claims Tribunal, I Additional District Court, Cuddalore with MCOP.No.1837 of 2018.

2.Sharmila Banu was stated to be a tailor and also doing certain business on consumerables. The Tribunal had fixed her notional monthly income at Rs.5,000/-, to which it added another 40% towards future prospects of increase in income and applied 18 as the multiplier and deducted 1/3rd towards her personal expenditure and awarded a compensation of Rs.10,08,072/- under the head of loss of dependency. Including the compensation payable under other conventional heads, the Tribunal had arrived at a total compensation of Rs.11,39,072/-, from which it deducted 5% towards the contributory negligence of the victim, as she had not been wearing a helmet at the relevant time. Aggrieved by the perceived inadequacy of the compensation, the claimants are now before this Court with this appeal.

3.Heard both sides.



CMA.No.1877 of 2023

WEB COPY

4.The learned counsel for the appellants submitted given the fact that the accident had taken place in 2018, to fix the notional income at Rs.5,000/- per month is far distance from reality and seeks the interference of the Court to make suitable modification.

5.After considering the statement of the learned counsel for the appellants and also perusing the records, this Court deems it appropriate to modify the compensation awarded under the head of loss of dependency. Here, the critical component is the notional income and this Court considers Rs.5,000/- as fixed by the Tribunal as the notional income is atrociously low. Accordingly, this Court fixes the notional monthly income at Rs.11,000/-, to which it adds another 40% towards future increase in income, applies 18 as the multiplier and deducts $\frac{1}{3}$ rd from the said sum and arrives at a value of dependency at Rs.22,17,600/-. Retaining the other conventional heads of compensation, the total compensation is determined at Rs.23,48,600/-. However, 5% of it necessarily have to be deducted towards the contributory negligence of the victim and after adjusting the same, the net value of compensation is arrived at Rs.22,31,170/-. The break up is as below;



CMA.No.1877 of 2023

WEB COPY

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	10,08,072/-	22,17,600/-	Enhanced
2.	Loss of spousal consortium to 1 st claimant	44,000/-	44,000/-	Confirmed
3.	Loss of filial consortium to 2 nd claimant	44,000/-	44,000/-	Confirmed
4.	Funeral expenses and loss of estate	33,000/-	33,000/-	Confirmed
5.	Transport Expenses	10,000/-	10,000/-	Confirmed
Total		11,39,072/-	23,48,600/-	
Deducting 5% towards Contributory Negligence		10,82,200/-	22,31,170/-	Enhanced by 11,48,970/-

6.To conclude, this appeal is allowed and the compensation amount is increased from Rs.10,82,200/- to Rs.22,31,170/-, together with interest at 7.5% per annum, from the date of petition till the date of deposit.. The respondent is now required to deposit the entire compensation amount



CMA.No.1877 of 2023

WEB COPY

now determined by this Court with interest at 7.5%, less any amount already deposited, within a period of six (6) weeks from the date of receipt of a copy of this order. The enhanced portion of the compensation is required to be apportioned in the same ratio in which the Tribunal has apportioned the compensation. On such deposit, the appellants are permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellants had paid the Court fee only for Rs.10,00,000/- and they are now required to pay Court fees on the differential sum. No costs.

15.12.2023

Tsg

To

- 1.The Motor Accident Claims Tribunal,
The 1st Addl. District and Sessions Court,
Cuddalore.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



WEB COPY



CMA.No.1877 of 2023

N.SESHASAYEE, J.,

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CMA.No.1877 of 2023

15.12.2023