



CMA.No.363 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.363 of 2022

A.Ramalingam

... Appellant

-Vs-

1.The Managing Director,
State Express Transport Corporation,
Thiruvalluvar House,
Pallavan Salai,
Chennai – 600 002.

2.R.Gnanasoundari

3.Minor Kalaibaradhi

represented by her mother and
natural guardian 2nd respondent

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Judgment and Decree dated 05.08.2021 made in M.C.O.P.No.314 of 2016 on the file of Motor Accident Claims Tribunal [Principal District Judge], Nagapattinam.

For Petitioner	: Mr.R.Shivakumar for M/s.K.M.Vijayan Associates
For R1	: Mr.S.S.Santhosa Kumar
For R2	: No appearance
For R3	: Minor rep. by R2



CMA.No.363 of 2022

JUDGMENT

WEB COPY

The claimant before the Tribunal in MCOP.No.314 of 2016 on the file of Motor Accident Claims Tribunal, Principal District Court, Nagapattinam is the appellant herein. He seeks enhancement of compensation for loss of his only son in a road accident.

2.On 01.05.2016 at around 4.30 p.m. when the deceased was riding a motor cycle bearing Regn.No.TN 82 Z 2719 and was returning from Pattukkottai Polytechnic College, where he was doing his second year course in Mechanical Engineering, died owing to the rash and negligent driving of the Bus driven by the driver of the first respondent Corporation. The boy was close to complete his 18 years at the time when the accident took place. The Tribunal reckoned the loss of dependency by fixing the notional income of Rs.7,500/- for the boy, to which it added another 40% towards future prospects and applied a multiplier of 18 and after deducting 50% thereof towards the personal expenditure of the victim, arrived at a total sum of Rs.11,34,000/-. After adding other conventional heads of compensation, it arrived at a total compensation at Rs.12,84,000/-. This was further reduced by 50% as the



CMA.No.363 of 2022

Tribunal found reasons to contribute 50% contributory negligence on the part of the victim. This is under challenge.

3.The learned counsel for the appellant submitted the following;

- a) that the Tribunal had fixed an unreasonable lower sum as the notional income;
- b) that it ought not to have deducted anything towards the contributory negligence of the victim.

4.Explaining the second part of this argument, the learned counsel for the appellant submitted that the accident had occasioned when the victim was overtaking the bus and was misled by the wrong signal given by the bus. This is established by P.W.2, a witness who was standing near the bus stand which is proximate to the scene of occurrence.

5.The learned counsel for the first respondent would submit that the accident had taken place due to the reckless riding of the bike by the victim; first he did not have a licence to ride, and secondly, he had at least two of his friends in the pillion, and thirdly, he tried to overtake a



CMA.No.363 of 2022

moving bus by giving no opportunity to the driver of the bus to avoid an accident.

6.The rival submissions are carefully weighed. After taking into consideration the materials made available before the Court, this Court considers that contributing 40% negligence to the victim would be appropriate. Turning to the compensation part of the Award, this Court considers that for any boy doing his Diploma in Mechanical Engineering, fixing a notional income at Rs.7,500/- surely is on the lower side. This Court considers Rs.10,000/- per month would be reasonable and appropriate, and if another 40% is added to this towards future prospects and if multiplier of 18 is applied and this is reduced by 50% representing the personal expenditure of the victim, the balance would be Rs.15,12,000/-. If it is further reduced by another 40% towards the contributory negligence of the victim, the value of the net loss of dependency is arrived at R.9,07,200/-. If the other conventional heads as awarded by the Tribunal are added, the total compensation payable would be Rs.10,57,200/-.



CMA.No.363 of 2022

7. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,42,000/- is hereby enhanced to Rs.10,57,200/- 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 first 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 eight (8) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

13.10.2023

Tsg

To

1. The Motor Accident Claims Tribunal
[Principal District Judge], Nagapattinam
2. The Section Officer,
V.R. Section, High Court, Madras.



WEB COPY



CMA.No.363 of 2022

N.SESHASAYEE, J.,

Tsg

CMA.No.363 of 2022

13.10.2023