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C.M.A No.128 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.128 of 2022

1.Tamilselvi

2.Vimal (Minor)

Rep. by M&N F.Tamilselvi

3.Rajeswari

... Appellants

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai-600 002.

... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 23 of the Railway Claims Tribunal Act, 1987 seeking to set aside the award passed on 07.02.2018 by the Chief Judge, Motor Accident Claims Tribunal (Small Causes Court), Chennai in M.C.O.P.No.1869 of 2015.

For Appellants : Mr.A.Shanmugaraj

For Respondent : Mr.Anton Dhanasekaran



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JUDGMENT

The appellants herein are widow, minor son and mother of the victim who died in a road accident when he was about to board a bus belonging to the respondent bearing Registration No.TN-01-AN-0155 on 24.11.2012 at around 04.10 p.m. The accident occurred when the driver of the vehicle took off before the victim could complete boarding the bus.

2.The claimants have preferred a claim petition in M.C.O.P.No.1869 of 2015 before the Chief Judge, Motor Accident Claims Tribunal (Small Causes Court, Chennai) under Section 163 A of the Motor Vehicles Act, 1988. The Tribunal has awarded of Rs.3,93,500/- as compensation. Challenging the compensation awarded under the head loss of dependency, the claimants have preferred this appeal.

3.The victim was 33 years old and was stated to be working as an electrician. According to his wife who was examined as P.W.1 before the Tribunal, the victim used to earn anywhere between Rs.100/- to Rs.120/- a day. The Tribunal, without elaborating how it arrived at the total income, has fixed the annual income of the victim at Rs.5,76,000/- from



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which it deducted 1/3rd towards his personal expenditure and arrived at the net loss of dependency at Rs.3,84,000/-.

4.Mr.A.Shanmugaraj, the learned counsel for the appellants submitted that it is at least established that the victim used to earn Rs.3,300/- a month, and after deducting 1/3rd towards his personal expenditure, the net income available for the dependence would be Rs.2,200/-. Applying 17 as a multiplier, which corresponds to the age of the victim, the total loss of dependency would be Rs.4,48,800/-, whereas the Tribunal had awarded Rs.3,84,000/-.

5.Heard Mr.Anton Dhanasekaran, the learned counsel for the respondent.

6.The learned counsel for the respondent submitted that the appellants have not produced any shred of evidence to show that the victim earned even Rs.3,300/-. Indeed, it is very apparent that the victim was not in regular employment, and that the Tribunal appeared to have deducted the weekends from the total number of days in a month to arrive at his monthly income. The compensation awarded by the Tribunal under this head is only appropriate.



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7.This Court is not impressed with the submissions of the learned counsel for the respondent. At the end of the day, the claimants have chosen to file a claim petition only under Section 163 A of the Act, claiming a paltry of Rs.3,300/- as monthly income, which even by 2012 standards is on the lower side.

8.Therefore, this Court intends to reckon Rs.3,300/- as monthly income. This is kept as a basis, and compensation is calculated under the head for loss of dependency. The total compensation payable is Rs.4,58,300/-. This implies that the award passed by the Tribunal may have to be enhanced by another Rs.64,800/-. Therefore, the respondent is now required to pay a sum of Rs.4,58,300/- with all accrued interest, which is directed to be paid with interest at 7.5% per annum, less the interest for 1296 days which had occurred due to the delay in representing the appeal by the appellants within a period of eight (8) weeks from the date of receipt of a copy of this order. If the respondent had paid or deposited any amount pursuant to the award of the Tribunal, the said sum is liable to be deducted from the balance yet to be paid. It is underscored that the enhanced portion of the compensation will be divided in the same ratio in which the Tribunal has directed an apportionment of compensation.



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9. The Civil Miscellaneous Appeal stands partly allowed. No costs.

12.10.2023

Anu

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Chief Judge,
Motor Accident Claims Tribunal
(Small Causes Court), Chennai.



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N.SESHASAYEE, J.

Anu

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