



C.M.A.No.2379 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.2379 of 2018

1.Suguna

2.Muthusamy

3.Buvana

... Appellants/petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Branch, Valudareddy,
Salamedu, Villupuram.

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 26.11.2014, made in M.C.O.P.No.1009 of 2013, on the file of the Motor Accidents Claims Tribunal, (Special Sub Court), Tiruvannamalai.

For Appellants : Mr.B.Jawahar

For Respondent : Mr.Santhosh Kumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the dependents of the deceased Prasanna Kumar, for enhancement of



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compensation granted by the Award passed in M.C.O.P.No.1009 of 2013, dated 26.11.2014, by the Motor Accidents Claims Tribunal, Special Sub Judge, Tiruvannamalai, for the death of Prasanna Kumar, who died in the accident took place on 24.12.2012.

2. The parties are referred to hereunder according to status and ranking before the Trial Court.

3. According to the claimants, on 24.12.2012 at about 1.30 p.m., while the Prasanna Kumar was travelling in a two-wheeler bearing Registration No.TN 25 B 2111 from South to North, on Tiruvannamalai Town, Near Chinnakadai Street, a Government Bus, bearing Registration No.TN 32 N 3532 came in the back side of the two-wheeler very rashly and negligent manner, hit against the two-wheeler, causing fatal injuries. Immediately, he was taken to the Government Medical College Hospital, Thiruvannamalai, but he succumbed to injuries. The claimants, who are parents and sister of the deceased filed the Claim Petition, claiming a sum of Rs.20,00,000/- as compensation, for the death of the deceased Prasanna Kumar.



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4. The respondent-Tamil Nadu State Transport Corporation filed counter affidavit and denied all the averments made by the claimants and denied the manner of accident as alleged by the claimants. It is contended that due to the negligent act of the driver of the two-wheeler, the accident has occurred, Transport Corporation is not liable to pay compensation to the Claimants and also the claimants have to prove the age, avocation and income of the deceased. In any event, the quantum of compensation claimed by the claimants is highly excessive and prayed to dismiss the Claim Petition.

5. Before the Tribunal, on the side of the claimants P.W.1 to P.W.3 was examined and Exs.P1 to P13 were marked and on the side of the respondent, R.W.1 was examined and no documents marked.

6. The Tribunal after considering the pleadings, oral and documentary evidence, held that the accident has occurred due to rash and negligent driving by the driver of the Transport Corporation bus and directed the respondent-Transport Corporation to pay a sum of Rs.9,90,000/- as compensation to the appellants/claimants.



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7. Not being satisfied with the amounts awarded by the Tribunal, the appellants have come with the present appeal seeking enhancement of compensation. The Transport Corporation has not filed any appeal against the award.

8. The learned counsel for the appellants/claimants would submit that the notional income of the deceased has not been properly fixed by the Tribunal in spite of examination of P.W.3, who is the employer of the deceased, has deposed that the deceased was received a sum of Rs.13,500/- per month in the capacity of Computer Operator at M/s.Krishna Oil Stores. He would further submit that the Tribunal has granted only lesser amounts in all other heads. Hence, prays to modify the award passed by the Tribunal.

9. Per Contra, the learned counsel appearing for the respondent-Transport Corporation would submit that the accident is of the year 2012 and the notional income fixed by the Tribunal to the deceased is on the higher side and the same ought not to be revised. The Tribunal has taken higher side on other heads also and oppose to grant enhancement of compensation.



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10. Before this Court, the claimants have filed the appeal for enhancement, on the ground that the future prospects has not been granted as per the Judgment of the Hon'ble Apex Court in *National Insurance Company Ltd., vs. Pranay Sethi and others* reported in **2017 (16) SCC 680**. Similarly, the other heads, such as loss of consortium and funeral expenses awarded in a lower side and prays to grant enhancement. The Tribunal by notionally fixed the income of the deceased as Rs.10,000/- per month, since the deceased was a graduate and holding Bachelor Degree in Commerce. The deceased is a graduate and considering the year of the accident, fixing of Rs.10,000/- per month as monthly income of the deceased in this case, is appropriate and accordingly, this Court accepts the notional income fixed by the Tribunal. Similarly, as per the Judgment of the Hon'ble Apex Court in *National Insurance Company Ltd., vs. Pranay Sethi and others* cited supra, 40% ought to have been added as future prospects. Accordingly, 40% added as future prospects of the deceased. The deceased is aged about 32 years at the time of accident and considering the age of the deceased, the Tribunal has applied proper multiplier '16' as per the Judgment of the Hon'ble Supreme Court in *Sarla Verma and Others vs. Delhi Transport Corporation and Another* reported in **2009 (2) TNMAC 1**



SC. The deceased is a bachelor and hence deducted 1/2 for personal expenses and accordingly, the following calculations are made as follows:

Loss of Income is at Rs.9,60,000/- [10000 – 5000 (50% of 10000) = 5000 X 12 X 16]. Future prospectus of Rs.3,84,000/- is hereby awarded. The Tribunal has awarded a sum of Rs.5,000/- as funeral expenses which is very meagre and this Court is inclined to grant a sum of Rs.15,000/- under the head funeral expenses. The Tribunal has awarded a sum of Rs.25,000/- for loss of love and affection and the same is modified to Rs.40,000/- to each petitioners for loss of Consortium i.e., Rs.1,20,000/-. The Tribunal has not awarded compensation under the head loss of estate and this Court is inclined to grant a sum of Rs.15,000/- for the head loss of estate. The appellants are entitled a total compensation of a sum of Rs.15,04,000/- which is as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	Rs.9,60,000/-	Rs.9,60,000/-	Confirmed
2.	Future Prospects 40%	---	Rs.3,84,000/-	Granted
3.	Funeral Expenses / Funeral Expenses and Loss of Estate	Rs.5,000/-	Rs.30,000	Enhanced



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4.	Loss of love and affection / Loss of Consortium Rs.40,000/- each	Rs.25,000/-	Rs.1,20,000/-	Enhanced
	Total Compensation	Rs.9,90,000/-	Rs.14,94,000/-	Enhanced by Rs.5,04,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.9,90,000/- is hereby enhanced to Rs.14,94,000/- [Rupees Fourteen Lakhs and Ninety Four Thousand only] together with interest at the rate of 7.5% per annum from the date of claim 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 weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.1009 of 2013, on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai. On such deposit, the appellants/claimants are entitled to withdraw the amount, now awarded by this Court along with interest and costs, as per the apportionment fixed by the Tribunal, less the amount if any, already withdrawn. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the



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claimants without any formal application. Since this Court has enhanced the compensation, the appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation. In other aspects, the award of the Tribunal shall stand confirmed. It is made clear that the appellants/claimants shall not be entitled for any interest for the delay period in filing the appeal on the amount of Rs.5,14,000/- enhanced by this Court as per the order of this Court dated 02.03.2017 made in C.M.P.No.2428 of 2017 in C.M.A.SR.No.35567 of 2016. There shall be no order as to costs in the present appeal.

12.07.2023

ssi

Index : Yes / No

Speaking Order: Yes / No

Neutral Citation Case : Yes/No

To

1.The Special Sub Judge,
Motor Accidents Claims Tribunal,
Tiruvannamalai.

2.The Section Officer,
VR Section,
High Court, Madras.



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K.RAJASEKAR,J.,

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