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CMA No.2008 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2008 of 2022

1.V.Ponniammal
2.R.Priya
3.V.Vijayakumar
4.V.Anitha

...Appellants

Vs.

The Managing Director
Tamil Nadu State Transport Corporation
(VPM) Ltd., Thriuvannamalai.

...Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 7.6.2016 made in M.C.O.P. No.7280 of 2015 on the file of the Principal Special Judge, Special Court under the EC & NDPS Act (Motor Accidents Claims Tribunal) Chennai.

For Appellants : Mr.N.M.Muthurajan

For Respondent : Mr.C.R.Sureshkumar

JUDGMENT

The claimants have filed this appeal seeking for enhancement of compensation against the award passed by the Principal Special Judge, Special Court under the EC & NDPS Act (Motor Accidents Claims Tribunal) Chennai in M.C.O.P.No.7280 of 2015 dated 07.06.2016.



CMA No.2008 of 2022

WEB COPY

2. The facts leading to filing of this case are as follows :

(i) The husband of the 1st claimant/1st appellant and father of claimants 2 to 4/appellants 2 to 4 by name Mr.A.Vembuli was standing near the eastern side of GST Road near Irumbuliyur Signal Point on 04.8.2015 at about 9.30 am. At that time, the bus belonging to the respondent Corporation was driven by its driver in a rash and negligent manner and it dashed on him, due to which, he sustained grievous injuries and died on the spot.

(ii) It is under these circumstances, the claimants/appellants filed the claim petition before the Tribunal seeking for compensation. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the respondent Corporation. Having rendered such a finding, the Tribunal, proceeded to fix the compensation under various heads as follows:

"Loss of dependency Rs.12,28,500/-

Loss of consortium for the 1st claimant Rs.40,000/-

Loss of love and affection for claimants 2 to 4 Rs.60,000/-

Funeral expenses Rs.20,000/-

Total compensation Rs.13,48,500/-".



CMA No.2008 of 2022

(iii) The Tribunal further directed the compensation to be paid along with interest at the rate of Rs.7.5% p.a. from the date of claim petition till date of realization. The claimants, not being satisfied with the compensation fixed by the Tribunal, have filed this appeal seeking enhancement.

3. Heard Mr.N.M.Muthurajan, learned counsel for the appellants and Mr.C.R.Sureshkumar, learned Standing Counsel appearing for the respondent.

4. This Court has carefully considered the submissions made on either side and perused the materials available on record.

5. In the considered view of this Court, the Tribunal, while fixing the income of the deceased, failed to add to the future prospects. The deceased was aged about 48 years at the time of the accident. Hence, the future prospects of the deceased at the rate of 25% can be added to the total income. The same works out to a sum of Rs.2,625/- and the total income works out to Rs.13,125/- (Rs.10,500/- + Rs.2,625/-) per month. If the loss of dependency is calculated with the above income, the total works out to Rs.15,35,625/- [Rs.13,125/- x 12 x 13 = Rs.20,47,500/- less 1/4th towards personal expenditure to the tune of Rs.5,11,875/-].



CMA No.2008 of 2022

6. In so far as the compensation fixed under the head 'loss of love and affection' is concerned , it can be enhanced from Rs.20,000/- to Rs.40,000/- for claimants 2 to 4. Thus, from Rs.60,000/- it can be enhanced to Rs.1,20,000/-.

7. The Tribunal had not granted any compensation under the head 'loss of estate' and it can be fixed at Rs.15,000/-. The funeral expenses can be reduced from Rs.20,000/- to Rs.15,000/-.

8. In the light of the above discussions, the total compensation is fixed under various heads as follows:

S. No.	Head	compensation fixed
1	Loss of dependency	Rs. 15,35,625/-
2	Loss of love & affection for claimants 2 to 4/ appellants 2 to 4	Rs. 1,20,000/-
3	Loss of consortium to 1st claimant/1st appellant	Rs. 40,000/-
4	Funeral expenses	Rs. 15,000/-
5	Loss of estate	Rs. 15,000/-
	Total	Rs. 17,25,625/-

9. It is brought to the notice of this Court that the compensation that was fixed by the Tribunal had already been deposited and that the Tribunal apportioned the award amount almost equally to all the claimants. The Tribunal



CMA No.2008 of 2022

further permitted the claimants/appellants to withdraw 50% of the award amount. Hence, the above enhanced compensation fixed by this Court in this judgment namely Rs.3,77,125/- (Rs.17,25,625/- - Rs.13,48,500/-) shall be deposited by the respondent together with interest at the rate of 7.5.% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. On such deposit, the claimants/appellants are entitled to withdraw their shares.

10. The civil miscellaneous appeal is partly allowed to the extent indicated above. No costs.

08.04.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order : Yes/No

To

1.The Principal Special Judge,
Special Court under the EC & NDPS Act
(Motor Accidents Claims Tribunal) Chennai.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(VPM) Ltd., Thriuvannamalai.

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