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C.M.A.No.841 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.841 of 2020

1.Shanthi
2.Ayyappan
3.Sankar

.. Appellants

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Railway Station New Road,
Kumbakonam.

2.Sankar

3.The Divisional Manager,
The National Insurance Company Limited,
No.19, Officers Lane, Vellore.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 27.10.2009 made in M.C.O.P. No.472 of 2009 on the file of the Motor Accidents Claims Tribunal, (Principal Sub Court), Tiruvannamalai.

For Appellants : Mr.B.Jawahar

For Respondents : Mr.Murali Vinoth for R1
R2-No appearance
Mr.S.Rathna Thara for R3



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JUDGMENT

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This appeal has been filed by the appellants/claimants seeking enhancement of compensation.

2.One Saminathan died as a result of an accident caused by a bus, owned by the first respondent/Transport Corporation. The adverse findings of the negligence on the part of the Driver of the bus, owned by the first respondent/Transport Corporation in the impugned award has not been challenged by any of the respondents in this appeal. The said adverse findings has now attained finality.

3.The appellants are the dependants of the deceased. The Tribunal, under the impugned award, has directed the first respondent/Transport Corporation to pay the appellants a total compensation of Rs.2,45,000/- as detailed hereunder:

S.Nos.	Head	Amount awarded by the Tribunal
1.	Loss of income $1500 \times 1/3 = 500$; $1500 - 500 - 1000 \times 12 \times 15$	Rs.1,80,000.00
2.	Loss of estate	Rs. 50,000.00
3.	Loss of love and affection	Rs. 5,000.00
4.	Transportation expenses	Rs. 5,000.00
5.	Funeral expenses and conventional damages	Rs. 5,000.00
	Total	Rs. 2,45,000.00



4.The appellants/claimants claim that the compensation awarded by the Tribunal is low and it has to be enhanced. The deceased Saminathan was a Mason when the accident happened in the year 2008. The appellants in their Claim Petition had pleaded that the deceased was earning a sum of Rs.6,000/- per month at the time of accident. However, the Tribunal has erroneously fixed the notional monthly income of the deceased at Rs.1,500/- and has deducted 1/3rd amount towards personal expenses of the deceased. Though the deduction is right, but the fixation of the notional monthly income of the deceased at Rs.1,500/- is too low, considering the nature of avocation of the deceased and the year of the accident.

5.This Court, after giving due consideration to the year of the accident, i.e., 2008, is of the considered view that the Tribunal ought to have fixed notional monthly income of the deceased at Rs.4,500/- instead of Rs.1,500/-. Insofar as the compensation awarded by the Tribunal under various other heads, viz. compensation towards loss of estate, compensation towards loss of love and affection, compensation towards transportation and compensation towards funeral expenses are concerned, the Tribunal has rightly assessed the compensation and there



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is no scope for interference by this Court.

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6.Since the notional monthly income of the deceased is enhanced from Rs.1,500/- to Rs.4,500/- by this Court, the compensation amount payable to the appellants/claimants towards loss of income is enhanced from Rs.1,80,000/- to Rs.5,40,000/-.

7.For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.2,45,000/- to Rs.6,05,000/- as detailed hereunder:

S.Nos.	Head	Amount awarded by this Court
1.	Loss of income $4500 \times 1/3 = 1500$; $4500 - 1500 = 3000 \times 12 \times 15$	Rs.5,40,000.00
2.	Loss of estate	Rs. 50,000.00
3.	Loss of love and affection	Rs. 5,000.00
4.	Transportation expenses	Rs. 5,000.00
5.	Funeral expenses and conventional damages	Rs. 5,000.00
	Total	Rs. 6,05,000.00

8.Accordingly, this Civil Miscellaneous Appeal is partly allowed by



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enhancing the award amount. The first respondent/Transport Corporation is directed to deposit the enhanced award amount of Rs.6,05,000/-, after deducting the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit and cost to the credit of M.C.O.P. No.472 of 2009 on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Tiruvannamalai, within a period four weeks from the date of receipt of a copy of this judgment.

9.The appellants/claimants are permitted to withdraw the said amount as apportioned by the Tribunal, once it is deposited by the first respondent/Transport Corporation, by filing an appropriate application. On such application being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No.472 of 2009 to the bank account of the appellants/claimants directly through RTGS, within a period of one week thereafter. No costs.

24.04.2024

vga

ABDUL QUDDHOSE, J.



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To

- 1.The Motor Accidents Claims Tribunal,
Principal Sub Court, Tiruvannamalai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

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