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C.M.A.No.3893 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11/11/2024

C O R A M

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

C.M.A.No.3893 of 2019

1. Chandiran

2. Sithuponnu ... Appellants

Vs

1. The Managing Director
Tamil Nadu State Transport Corporation Limited
Bharathipuram, Salem Main Road
Dharmapuri.

2. Usharani

3. The Manager
The Oriental Insurance Company Limited
No.32/312 Vijayalakshmi Complex
II Floor, 13th Street
Sathuvachari
Vellore.

... Respondents

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 10/7/2014 made in M.A.C.T.O.P.No.844 of 2013 on the file of the Motor Accident Claims Tribunal, Special Judge, Tiruvannamalai.



C.M.A.No.3893 of 2019

For appellants ... Ms.N.Lavanya

For respondents ... Mr.D.Nitin
for R.1

No appearance for R.2

Mr.D.Bhaskaran
for R.3.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants/claimants, seeking enhancement of compensation in M.A.C.T.O.P.No.844 of 2013 dated 10/7/2014 on the file of the Motor Accident Claims Tribunal, Special Judge, Tiruvannamalai.

2. It is the case of the appellants/claimants that on 7/2/2012, at about 5.30 a.m., when the deceased was driving a van belong to the second respondent, bearing Registration No.TN-59-AJ-6899 – TATA 407, at that time, a bus bearing Registration No.TN-29-N-1944, owned by the first respondent and insured with the third respondent, driven by its driver, in a rash and negligent manner, dashed the vehicle driven by the deceased. Due to the said accident, deceased sustained grievous injuries and died on the spot. Thereafter, the claimants filed a claim petition before the Tribunal, claiming a sum of Rs.20,00,000/- as compensation.



WEB COPY

3. Before the Tribunal, during trial, on the side of the appellants, first appellant, father of the deceased himself was examined as P.W.1 and eye witness as P.W.2 and marked Exs.P.1 to P.4. On the side of the second respondent, one witness was examined and no document was marked.

4. After analyzing the oral and documentary evidences, the Tribunal has awarded a sum of Rs.6,00,000/- as compensation payable by the Insurance Company, under the following heads.

<i>Heads</i>	<i>Amount awarded by the Tribunal</i>
Loss of earning capacity	Rs.5,40,000/-
Loss of love and affection (20,000 x 2)	Rs. 40,000/-
Funeral expenses	Rs. 20,000/-
Total	Rs.6,00,000/-

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, appellants have come forward with this appeal before this Court.



WEB COPY

6. Heard Ms.N.Lavanya, learned counsel for the appellants, Mr.D.Nitin, learned counsel for the first respondent and Mr.D.Bhaskaran, learned counsel for the third respondent. There is no representation on behalf of the second respondent.

7. The learned counsel appearing for the appellants submitted that at the time of the accident, the deceased was 23 years old. The Tribunal, without adding any future prospects, passed an award, which is not a certainable one.

8. The learned counsel appearing for the first and third respondents unilaterally submitted that, taking into consideration all the relevant documents has rightly fixed the compensation, which does not require any interference.

9. Perused the materials available on record.

10. Admittedly, the accident had happened in the year 2012. The vehicle driven by the deceased was insured with the third respondent. First



respondent Transport Corporation bus had come from opposite direction and

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dashed against the vehicle insured with the third respondent which was driven by the deceased and thereby, accident had happened. The Transport Corporation did not challenge the finding rendered by the Tribunal with regard to negligence and prayed for appropriate orders in the appeal filed by the claimants only with regard to quantum.

11. In the present case, there is no need for discussion with regard to negligence. In respect of quantum, appellants themselves had claimed that the monthly income of the deceased was Rs.10,000/- and the same was accepted. After adding 40% towards future prospects, the monthly income is quantified at Rs.14,000/- and deducting 50% towards personal expenses, loss of income to the family is Rs.7,000/-. Accordingly, the loss of income to the family is quantified at Rs.15,12,000/- by adopting multiplier of 18 as the age of the deceased was 23. However, Claims Tribunal failed to award future prospects. The compensation awarded under other heads by the Tribunal is confirmed, which does not warrant any interference. Hence, this Court is inclined to enhance the compensation amount as follows:-



WEB COPY



C.M.A.No.3893 of 2019

<i>Heads</i>	<i>Modified award amount</i>
7,000/- x 12 x 18 =	Rs.15,12,000/-
Love and affection (40,000x 2 = 80,000/-)	Rs. 80,000/-
Loss of Estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Total	Rs.16,22,000/-

12. In the result, order of the Tribunal in M.A.C.T.O.P.No.844 of 2013 dated 10/7/2014 is modified and this Civil Miscellaneous Appeal is partly allowed. However, there shall be no order as to costs in this appeal. The third respondent is directed to deposit the award amount of Rs.16,22,000/- along with interest at the rate of 7.5% p.a., from the date of claim petition till date of deposit, less the amount, if any already deposited, to the credit of the claim petition before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. The compensation is apportioned in equal proportion amongst both the claimants. On the deposit being made, the Tribunal is directed to transfer the same to the bank account of the respective appellants/claimants through RTGS within a period of two weeks thereafter.

11/11/2024

mvs.



C.M.A.No.3893 of 2019

Index : Yes / No

Neutral Citation: Yes/No

WEB COPY

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WEB COPY



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