



C.M.A(MD)No.1161 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.02.2023

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THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A(MD)No.1161 of 2022

1.N.Pandi Sekar (Died)
2.Santhi
3.Kurnaam Singh
4.Sapthar Kashmi
5.Rajkumar

... Appellants/
Petitioners

Vs

The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Division,
Madurai.

...Respondent/
Respondent

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act to modify the shares of the claimants in award passed and made in M.C.O.P.No.200 of 2016 on the file of the Special Sub-Court (Motor Accident Claims Tribunal), Madurai, dated 02.02.2022.

For Appellants : Mr.M.Selvakumar

For Respondent : No appearance



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nexus between the injuries sustained by the deceased and the resultant death two years thereafter.

4. The second claimant examined himself as P.W.1, an eye witness as P.W.2 and the Doctor in Vellammal hospital as P.W.3 and marked documents Exhibit B1 to B23. The Driver of the bus was examined as R.W.1 on the side of the respondent and no documents were marked.

5. The Tribunal on an appreciation of the entire evidence on record held that the negligence of the Driver of the bus resulted in the accident. The Tribunal relying on the judgment of this Court in the case of ***Divisional Manager Vs S.V.Mani*** reported in ***CDJ 2008 MHC 6209*** held that the claimants failed to establish the nexus between the injuries sustained in the accident and the consequent death two years thereafter and therefore, applying the principles of ***Actio Personalis moritur cum persona*** held that the claimants were not entitled to any compensation for permanent disability. The claims Tribunal held that the claimants would be entitled only to the expenses incurred towards Transport, medical expenses, nutrition and attender etc.



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6. The Tribunal awarded a sum of Rs.1,58,600/- as compensation along with 7.5% interest. Not satisfied with the compensation awarded by the Tribunal, the claimants have filed the above appeal.

7. It is admitted by the learned counsel for the appellants that there was no evidence to establish the nexus between the injuries sustained in the accident and the consequent death two years thereafter. The learned counsel submitted that the compensation awarded by the Tribunal even under the other heads was very meagre and therefore, submitted that this Court may be pleased to enhance the compensation under the said heads.

8. Considering the fact that the deceased's left leg was amputated below the hip and the disability was assessed at 85%, I am of the view that the compensation under the head of assistance can be enhanced. The Tribunal awarded Rs.400/- per day for 49 days (the treatment period) but I am of the view that as the left leg was amputated, he would have needed assistance till his death, therefore, under the head of assistance, the compensation is awarded at Rs.400/- per day for 22 months, that is from the date of accident till the date of death. As far as the nutritious food is concerned, the Tribunal



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awarded Rs.20,000/-, but I am of the view that a sum of Rs.2,000/- per month can be awarded towards nutritious food for 22 months (ie) from the date of accident till the date of death. Under the head transportation, the Tribunal has awarded only Rs.3,000/- which in my view is very meagre. Considering the fact that the deceased's left leg was amputated, an amount of Rs.25,000/- towards transportation would be reasonable. The Tribunal has found that the medical bills for Rs.1,16,000/- alone were filed and therefore in the absence of any evidence, the compensation towards medical expenses cannot be interfered. In the light of the above discussion, the order of the Tribunal is modified as follows:

S.No.		Tribunal	Court
1	ஊட்டச்சத்து மற்றும் உணவிற்காக	Rs.20,000/-	Rs.44,000/-
2	மருத்துவ செலவு வகைக்காக	Rs.1,16,000/-	Rs.1,16,000/-
3	உடனிருந்த நபருக்காக	Rs.19,600/-	Rs.2,64,000/-
4	பயண செலவு	Rs.3,000/-	Rs.25,000/-
5	Total	Rs.1,58,600/-	Rs.4,49,000/-

9. In view of the above, the claimant shall be entitled to Rs.4,49,000/- along with 7.5% interest. The respondent transport corporation shall deposit the enhanced compensation amount of Rs.4,49,000/- along with 7.5% interest less the amount already deposited, if any, within a period of eight weeks from the date of receipt of copy of this order. On such deposit being made by the



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respondent, the claimants are permitted to withdraw the same. The apportionment of compensation shall be as directed by the Tribunal. The appeal is therefore partly allowed. There shall be no order as to costs.

08.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Special Sub-Court (Motor Accident Claims Tribunal),
Madurai
- 2.The Section Officer, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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N.MALA, J

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