

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No. 3001 of 2009
(Through Video Conferencing)

1. C.Nachimuthu (Died)
2. Saraswathi
W/o. Late C.Nachimuthu
3. Kanimani
D/o. Late C.Nachimuthu
4. K.N.Saminathan
S/o. Late C.Nachimuthu ... Appellants/Petitioners

(Appellants 2 to 4 Brought on record as legal heirs of the deceased sole appellant viz., C.Nachimuthu vide Court order dated 20.08.2019 made in C.M.P.Nos.19168, 19172 and 19174 of 2018 in C.M.A.No.3001 of 2009)

Vs.

1. A.Rajendran
2. The Managing Director,
Tamilnadu State Transport Corporation
(Coimbatore Division) Ltd.,
Chennimalai Road, Erode. ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.07.2007 made in M.C.O.P.No.130 of 2007, on the file of the Motor Accidents Claims Tribunal, First Additional District Court/Fast Track Court No.1, Erode.

For Appellants : Mr.N.Manoharan

For R2 : Mr.Arun
for Mr.A.Sundaravadanan

JUDGMENT

The claimants are the appellants in this appeal. They are aggrieved by the impugned Judgment and Decree dated 20.07.2007

passed by the Motor Accidents Claims Tribunal, First Additional District Court/Fast Track Court No.1, Erode in M.C.O.P.No.130 of 2007.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.86,000/- as compensation together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of deposit, to the appellants/claimants.

3. This appeal was filed by the claimant (C.Nachimuthu) who died during the pendency of the present appeal and therefore, this appeal is being pursued by his legal representatives, viz., the 2nd to 4th claimants/2nd to 4th appellants. In this appeal, the deceased/claimant had challenged the compensation awarded by the Motor Accidents Claims Tribunal vide order dated 20.07.2007 in M.C.O.P.No.130 of 2007.

4. The Tribunal after considering the evidences on record has awarded the aforesaid compensation under the following heads:-

Heads of Compensation	Amount Awarded by the Tribunal
Pain & Sufferings	Rs.15,000/-
Transportation & Extra nourishment	Rs. 5,000/-
Medical Expenses	Rs.45,000/-
Loss of Income	Rs. 1,000/-
Permanent Disability	Rs.20,000/-
Total	Rs.86,000/-

5. The learned counsel appearing for the appellants/claimants submits that, the claimant (C.Nachimuthu) who was aged about 71 years at the time of occurrence, was hale and healthy and was earning and contributing amounts to the family. It is therefore submitted that, the Tribunal ought to have awarded higher compensation towards loss of income. Considering the fact that the deceased (C.Nachimuthu) was hospitalized for a period of 10 days and had to undergo surgery and was out of work for a period of 10 months.

6. Considering the slow rate of recovery from the injury suffered, the learned counsel for the appellants/claimants also submits that the Tribunal ought to have awarded a sum of Rs.53,532/- towards medical expenses met by the claimant (since

deceased). He further submits that the Tribunal ought to have awarded amount also towards attender's charges. Finally, he submitted that the amount of Rs.15,000/- awarded towards pain & suffering was very low and therefore, the Court may consider the case for enhancement of compensation.

7. The learned counsel for the second respondent/State Transport Corporation, opposes the prayer for enhancement of compensation and submits that the impugned Judgment and decree required to be confirmed and therefore, prays for dismissal of the present appeal.

8. Heard the learned counsel for the appellants and the second respondent. I have considered the arguments and perused the records.

9. In my view, the Tribunal ought to have awarded a sum of Rs.25,000/- towards pain & sufferings. The Tribunal has also not awarded any amount towards attender's charges. That apart, the Tribunal has awarded only a sum of Rs.1,000/- towards loss of income.

10. The fact that the appellant/claimant(since deceased) was riding a moped at the time of accident, its indicates that even though he was aged about 70 years, he was hale and healthy and capable of carrying on some activity which may have generated some income.

11. Considering the fact that the claimant was aged about 71 years, it would be reasonable to conclude that he would have earned atleast Rs.1,500/- to Rs.2,000/- by working in the fields or atleast by making himself useful for the family and for himself.

12. Therefore, I am inclined for award a sum of Rs.10,000/- as compensation towards loss of income as it would have taken atleast 10 months for claimant to recuperate fully from the injury suffered on account of the accident.

13. The compensation awarded by the Tribunal is therefore enhanced as follows:-

Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court
1.	Pain & Sufferings	Rs.15,000/-	Rs.25,000/-

Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court
2.	Transportation & Extra Nourishment	Rs.5,000/-	Rs.5,000/-
3.	Medical Expenses	Rs.45,000/-	Rs.53,532/- (Rs.45,000/-+ Rs.8,532/-)
4.	Loss of Income	Rs.1,000/-	Rs.10,000/-
5.	Permanent Disability	Rs.20,000/-	Rs.20,000/-
6.	Attendar's Charges	-	Rs.5,000/-
	Total	Rs.86,000/-	Rs.1,18,532/- Rounded of to Rs.1,20,000/-

14. Therefore, the 2nd respondent/State Transport Corporation is directed to deposit the enhanced amount of compensation of Rs.1,20,000/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

15. On such deposit being made by the 2nd respondent/State Transport Corporation, the 2nd to 4th appellants/2nd to 4th claimants are permitted to withdraw the same together with interest accrued thereon, less any amount already withdrawn by them after filing suitable application before the Tribunal.

16. The present Civil Miscellaneous Appeal is partly allowed. No cost.

सत्यमेव जयते

Sd/-

Assistant Registrar (CO)

//True Copy//

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Sub Assistant Registrar

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To:

The Motor Accidents Claims Tribunal,
First Additional District Court/Fast Track Court No.1,
Erode.

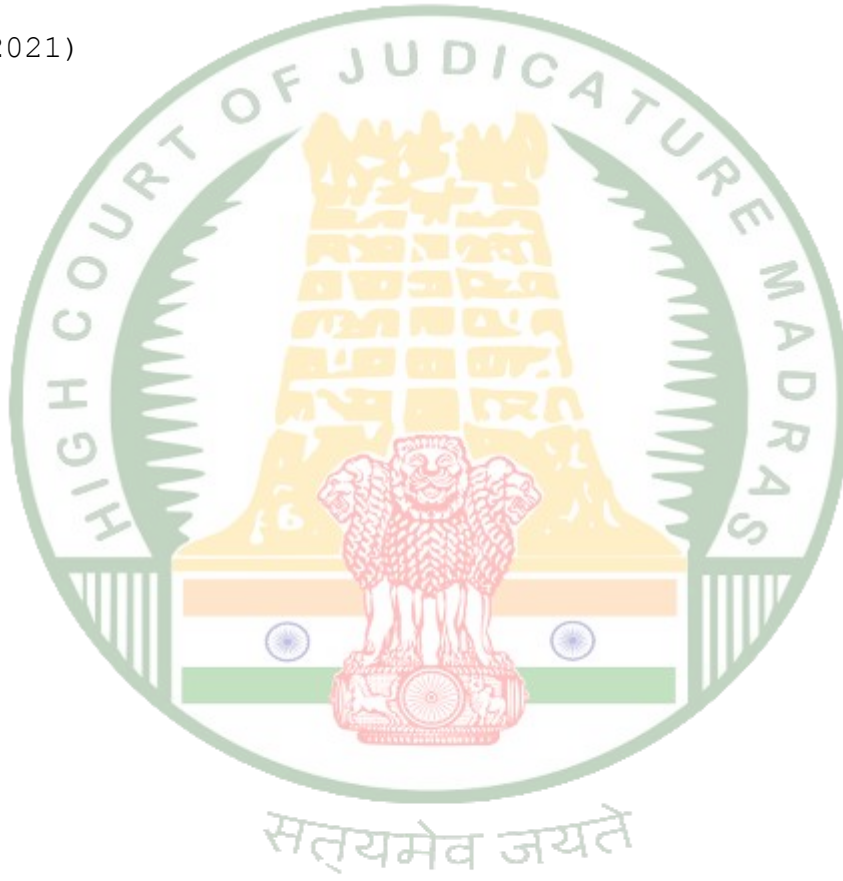
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The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.N.Manokaran, Advocate, S.R.No. 34570

C.M.A.No.3001 of 2009

AD(CO)
GN(08/04/2021)



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