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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.No.1158 of 2021
and
C.M.P.No.5920 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kancheepuram. ... Appellant/Respondent

vs

1.Venda
W/o.Palani

2.Minor Ashwini
D/o.Late Palani

3.Minor Bharath
S/o.Late Palani

4.Visalam
W/o.N.Shanmugam

5.N.Shanmugam
S/o.Late Narasimha Reddy

(minor respondents 2 and 3 are
represented by their mother and
natural guardian first respondent
herein) ... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.02.2020 passed in M.C.O.P.No.187 of 2017 on the file of Motor Accident Claims Tribunal, II Additional District Court, Vellore @ Ranipet.

For Appellant : Mr.K.J.Sivakumar

For Respondents : Mr.M.Sivakumar



JUDGMENT

[Judgement of the Court was delivered by R.SUBBIAH, J]

This matter is heard through Video-Conferencing.

2. For the sake of convenience, appellant herein is referred to as 'Transport Corporation' and respondents herein are referred to as 'Claimants'.

3. Challenging the quantum of compensation awarded by the Tribunal in and by its judgment and decree dated 07.02.2020 passed in M.C.O.P.No.187 of 2017 on the file of Motor Accident Claims Tribunal, II Additional District Court, Vellore @ Ranipet, the Transport Corporation has filed the present appeal.

4. The brief facts of the case are as follows:

Claimants are wife, minor daughter, minor son and parents of the deceased Palani. On 24.02.2017 at about 19.30 hours, while the deceased was walking holding a Hero Honda Splender Plus Two Wheeler bearing Registration No.TN-22-BT-1433 on the Sholinghur to Arakkonam Road near Karikkal Gandhiji High School, a bus bearing Registration No.TN-21-N-0919, belonging to Transport Corporation, driven by its driver in a rash and negligent manner came from the opposite direction and dashed against the deceased, as a result of which the deceased sustained grievous injuries and died on the way to hospital. The deceased was working as a Lorry driver and was earning a sum of Rs.15,000/- p.m. Hence, claimants have filed a claim petition seeking compensation in a sum of Rs.40,00,000/-.

5. Resisting the claim made by claimants, the Transport Corporation had filed a detailed counter statement inter alia contending that the accident had not occurred in the manner as projected by claimants. They have also denied the age, occupation and income of the deceased. Thus, they prayed for dismissal of the claim petition.

6. To prove their claim, on the side of claimants, 2 witnesses were examined and 7 documents were marked. On the side of Transport Corporation, 1 witness was examined, but, no document was marked.

7. On appreciation of materials and the evidence on record, the Tribunal arrived at a finding that the accident had occurred due to the rash and negligent driving of the bus bearing Registration No.TN-21-N-0919. On coming to such a finding, the Tribunal directed the Transport Corporation to pay compensation. The Tribunal awarded a sum of Rs.30,54,200/- as compensation.



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The break-up details are as follows:

Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency	24,19,200/-
2.	Maintenance of minors till they attain majority, each Rs.2,00,000/-	4,00,000/-
3.	Loss of love and affection to minors, each Rs.50,000/-	1,00,000/-
4.	Loss of love and affection to parents, each Rs.30,000/-	60,000/-
5.	Loss of consortium to wife	40,000/-
6.	Loss of estate	15,000/-
7.	Funeral expenses	15,000/-
8.	Transportation	5,000/-
	Total	30,54,200/-

The said sum was directed to be paid together with interest at 7.5% p.a. from the date of claim petition till the date of realisation.

8. The primary submission of learned counsel for Transport Corporation is that having awarded a sum of Rs.24,19,200/- towards loss of dependency, the Tribunal had again awarded a sum of Rs.4,00,000/- towards maintenance of minors till they attain majority, which had resulted in awarding an exorbitant sum as compensation. Thus, learned counsel prays this Court to set aside the compensation of Rs.4,00,000/- awarded under the head 'maintenance of minors till they attain majority'. Learned counsel further submits that the compensation awarded under the other heads is also on the higher side.

9. Per contra, learned counsel appearing for claimants made his submissions supporting the award passed by the Tribunal

10. This Court has considered the rival submissions and perused the materials on record.

11. Since only the quantum of compensation is challenged in the present appeal, this Court is not dealing with the other aspects of the award.

12. This Court finds some force in the submission of learned counsel appearing for Transport Corporation. Having

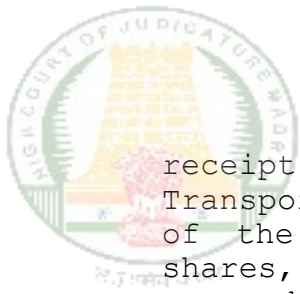


awarded a sum of Rs.24,19,200/- towards loss of dependency, the Tribunal ought not to have awarded a sum of Rs.4,00,000/- under the head 'maintenance of minors till they attain majority'. Hence, the compensation of Rs.4,00,000/- awarded under the head 'maintenance of minors till they attain majority' is set aside. Further, the sum of Rs.1,00,000/- awarded under the head 'loss of love and affection to minors' is on the higher side and hence, the same is reduced to Rs.80,000/- (Rs.40,000/- each). Similarly, the sum of Rs.60,000/- awarded under the head 'loss of love and affection to the parents of the deceased' is on the lower side and hence, the same is hereby enhanced to Rs.80,000/- (Rs.40,000/- each). The award of the Tribunal, in all other aspects, is hereby confirmed.

13. Accordingly, the modified compensation payable would be:

Sl. No.	Compensation awarded under the head	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of dependency	24,19,200/-	24,19,200/-
2.	Maintenance of minors till they attain majority, each Rs.2,00,000/-	4,00,000/-	-
3.	Loss of love and affection to minors, each Rs.50,000/-	1,00,000/-	80,000/-
4.	Loss of love and affection to parents, each Rs.30,000/-	60,000/-	80,000/-
5.	Loss of consortium to wife	40,000/-	40,000/-
6.	Loss of estate	15,000/-	15,000/-
7.	Funeral expenses	15,000/-	15,000/-
8.	Transportation	5,000/-	5,000/-
	Total	30,54,200/-	26,54,200/-

In the result, the Civil Miscellaneous Appeal is partly allowed. The compensation of Rs.30,54,200/- awarded by the Tribunal is hereby reduced to Rs.26,54,200/- [Rupees Twenty Six Lakhs Fifty Four Thousand and Two Hundred only]. The Transport Corporation is directed to deposit the modified compensation of Rs.26,54,200/-, less the amount already deposited, together with interest at 7.5% p.a. 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 being made by Transport Corporation, respondents 1, 4 and 5/wife and parents of the deceased are permitted to withdraw their respective shares, as apportioned by the Tribunal, along with accrued/proportionate interest and costs, less the amount, if any already withdrawn by them, by filing necessary application before the Tribunal. The shares of respondents 2 and 3/minors shall be deposited in fixed deposit in any one of the nationalised bank, till they attain majority and first respondent, being their mother and natural guardian, is entitled to withdraw interest once in three months towards taking care of the minors. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
II Additional District Court,
Vellore @ Ranipet.
2. The Section Officer,
VR Section,
High Court, Madras.

+lcc to M/s.K.J.Sivakumar, Advocate Sr No.20270
+lcc to M/s.C.Prabakaran, Advocate Sr No.20376

C.M.A.No.1158 of 2021

RK (CO)
PR (29/09/2021)