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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2457 of 2021
and C.M.P.No.14076 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation,
3/137, Salamedu, Vazhuthareddy,
Villupuram.

..Appellant

Vs.

1. J.Valarmathy

2. J.Vijayakumar

3. J.Suresh

4. J.Sudhakar

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act seeking to set aside the Judgment and Decree dated 04.12.2019, passed by the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore in M.C.O.P.No.1478 of 2014.

For Appellant : Mr.KJ.Sivakumar

For Respondents 1 to 4 : Ms.Ramya Rao

J U D G M E N T

(The case has been heard through video conference)

This appeal has been filed by the transport corporation challenging the Award dated 04.12.2019, passed by the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore (hereinafter referred to as the 'Tribunal') in M.C.O.P.No.1478 of 2014.



2. The details of the compensation awarded by the Tribunal to the respondents/claimants are as follows:

Sl.No .	Heads	Amount in Rs.
1.	Loss of dependency	25,42,509
2.	Love and affection	40,000
3.	Funeral expenses	15,000
4.	Loss of Estate	15,000
	Total (Rounded)	26,13,000

3. The appellant/transport corporation has challenged the impugned award only on the ground that the quantum of compensation awarded by the Tribunal to the respondents/claimants is excessive.

4. The deceased N.Jayaraman was a Taluk Surveyor working in the Taluk Office, Panruti and was aged 57 years at the time of the accident which happened on 25.09.2013. He died as a result of the rash and negligent driving of the driver of the bus owned by the appellant transport corporation. The cause of the accident has not been disputed by the appellant transport corporation. The only issue they have raised in this appeal is the quantum of compensation awarded to the respondents/claimants is excessive. It is their case that the deceased is a Government servant aged 57 years and was due to retire within a period of few months from the date of the accident. The Tribunal ought not to have assessed the monthly income of the deceased at Rs.27,295/-. According to them, since the deceased would have retired from service on reaching the age of superannuation at 58 years, the assessment of the monthly income of the deceased at Rs.27,295/- is on the higher side.

5. As seen from the evidence available on record, admittedly the deceased would have retired from Government service on reaching 58 years and the accident happened on 25.09.2013, when he was aged 57 years and six months. Therefore, this Court is of the considered view that only till the date of superannuation, the deceased would have earned Rs.27,295/- as his monthly income and thereafter he would not be earning the same monthly income. The Tribunal has awarded 15%



towards loss of future prospects since the deceased was aged 57 years at the time of the accident and the same is confirmed by this Court. Since the deceased would have retired from Government service within six months from the date of the accident, the monthly income together with loss of future prospects at 15% will be Rs.31,389/- and for the period of six months it would amount to Rs.1,88,334/-. Since the respondents/claimants who are the dependents of the deceased are four in number, after deducting 1/4 towards personal expenses of the deceased, the total income for six months period will work out to Rs.1,41,251/- and the same is now fixed by this Court. For the remaining period of eight years and six months the monthly income for the deceased is assessed by this Court at 50%, since he would have retired from service and therefore the monthly income of the deceased is reassessed by this Court at Rs.13,648/- and the loss of future prospects for the remaining period of 8 years and 6 months is assessed at the rate of 15% and the total amount is Rs.15,696/- per month. The notional income for the remaining period of 8 years and 6 months works out to Rs.1,88,352/-. The loss of dependency for six months i.e., till the deceased would have been in service is reassessed by this Court at Rs.1,41,251/- and the loss of dependency for 8 years and 6 months period after his retirement is reassessed by this Court at Rs.12,00,744/-. In all put together the loss of dependency is reassessed by this Court at Rs.13,41,995/- instead of Rs.25,42,509/- erroneously assessed by the Tribunal.

6. The respondents/claimants are wife and three children of the deceased. The first claimant being the wife is entitled to loss of consortium, which is fixed at Rs.40,000/- by this Court and the three children are entitled to Rs.40,000/- each towards loss of love and affection. The Tribunal has awarded a meager compensation towards loss of love and affection at Rs.40,000/-. Accordingly the compensation to the first respondent / first claimant (wife) towards loss of consortium is fixed at Rs.40,000/- and for loss of love and affection to the respondents 2 to 4 / claimants 2 to 4 is fixed at Rs.40,000/- each totalling Rs.1,20,000/-.

7. In so far as the compensation awarded by the Tribunal towards funeral expenses at Rs.15,000/- and Rs.15,000/- towards loss of estate are concerned, the same cannot be considered to be excessive as alleged by the appellant transport corporation as it is in accordance with the settled law. Accordingly the same is confirmed by this Court. Further the interest awarded by the Tribunal at 8% is also confirmed by this Court.



8. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is reduced to Rs.15,31,995/- instead of Rs.26,13,000/- fixed by the Tribunal as detailed hereunder:

Sl . No .	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or set aside or granted or reduced (Rs.)
1.	Loss of dependency	25,42,509	13,41,995	Reduced
2.	Loss of Consortium (R1)	---	40,000	Awarded
3.	Love and affection (R2 to R4)	40,000	1,20,000	Enhanced
4.	Funeral expenses	15,000	15,000	Confirmed
5.	Loss of Estate	15,000	15,000	Confirmed
	Total	26,12,509 (Rounded to Rs.26,13, 000)	15,31,995	Reduced by Rs.10,81,005

9. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.26,13,000/- is hereby reduced to Rs.15,31,995/- together with interest at the rate of 8% per annum from the date of claim petition till the date of deposit. The appellant / transport corporation is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.1478 of 2014, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore. On such deposit, the respondents/claimants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn by making necessary application before the Tribunal. The respondents/claimants are entitled to refund of Court fee,



in any, on the reduced amount of compensation now determined by this Court. Consequently, the connected miscellaneous petition is closed. No costs.

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s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal
Principal District Court, Cuddalore
2. The Section Officer,
VR Section, High Court, Madras.

+1 CC to Mr.K.J. Sivakumar, Advocate sr 55564
+3 Ccs to Ms.Ramya V. Rao, Advocate sr 55457.

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and C.M.P.No.14076 of 2021

NK(CO)
SP(08/12/2021)