



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.142 OF 2016

AND

C.M.P.NO.5869 OF 2020

1. Selvam (died)
2. Mohana
3. Minor Rasigasri
4. Minor Nithish
(Appellants 3 & 4 are rep. by their natural
Guardian and mother second appellant)
5. Devaki
(Appellants 2 to 5 were brought on
record as LRS of the deceased sole appellant
by an order of this Court dt.29.04.2021
made in C.M.P.No.8097/21)

.. Appellants/Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Dr.Ramakrishna Salai,
Salem.

.. Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to enhance the compensation awarded in the Judgement and Decree dated 14.02.2014, made in M.C.O.P.No.168 of 2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Namakkal.

For Appellants : Mr.S.Sankar

For Respondent : Mr.Ramanathan
for Mr.D.Venkatachalam



J U D G M E N T

(The case has been heard through video conference)

This appeal was originally filed by the claimant Selvam seeking enhancement of compensation under the impugned Award dated 14.02.2014, passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Namakkal in M.C.O.P.No.168 of 2012. During the pendency of this appeal, Mr.Selvam died and his LRs have been brought on record. Not satisfied with the quantum of compensation awarded by the Tribunal, this appeal has been filed. The details of compensation awarded by the Tribunal are as follows:

Sl.No.	Heads	Amount in Rs.
1.	Permanent disability Rs.2000 x 40	80,000
2.	Pain and Suffering	20,000
3.	Extra Nourishment	20,000
4.	Transport expenses	10,000
5.	Medical expenses	3,12,754
6.	Attendant charges	10,000
7.	Loses of income Rs.4500 x 3 months	13,500
8.	Future medication	25,000
9.	Loses of amenities	15,000
	Total	5,06,254

2. The common law maxim "Action personalis moritur cum persona" meaning "personal right of action dies with the person" applies to this case as the original appellant Selvam, an injured accident victim, who had sought for enhancement of compensation, in this appeal, has died during the pendency of this appeal. Therefore, the enhancement sought for in this appeal does not survive. However, the legal representatives of the deceased appellant are entitled to recover the medical expenses incurred by the deceased Selvam when he was alive.

3. Before this Court, C.M.P.No.5689 of 2020 has been filed under Order 41 Rule 27 of C.P.C. by the LRs of the deceased appellant to receive additional documents pertaining to the medical expenses incurred by the deceased Selvam as a result of the injuries sustained by him due to the accident while he was alive. The total value of the medical bills produced before this Court workout to Rs.55,403/-. The said documents namely



the medical bills are marked as Ex.P13 and the discharge summary is marked as Ex.P14 by this Court. The learned counsel appearing for the respondent Transport Corporation has also not raised any serious objection for marking the aforementioned documents. This Court has also perused and examined the additional documents, which had been marked as Exs.P13 and P14 and satisfied with the same. Accordingly, C.M.P.No.5869 of 2020 is allowed as prayed for.

4. As seen from the additional documents, medical expenses amounting to Rs.55,403/- has been incurred by the deceased Selvam for treatment of the injuries sustained as a result of the accident when he was alive. Therefore, the said amount will have to be paid to the legal representatives of the deceased Selvam. Except the enhancement of Rs.55,403, the compensation awarded by the Tribunal under the impugned Award under various heads cannot be altered since the original appellant Selvam has died during the pendency of this appeal. As in accordance with the maxim "action personalis moritur cum persona" meaning "personal right of action dies with the person", his LRs are not entitled.

5. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced to Rs.5,61,657/- from 5,06,254/-, awarded by the Tribunal. Since the appeal was filed by Selvam the original appellant with a delay of 430 days, the LRs of the deceased Selvam are not entitled for any interest for the delay period. The compensation amount is apportioned as follows:

- (a) Second appellant (wife of the deceased Selvam)
Rs.2,00,000/-
- (b) Third appellant (minor child of deceased Selvam) Rs.1,50,000/-
- (c) Fourth appellant (minor child of deceased Selvam) Rs.1,50,000/-
- (d) Fifth appellant (mother of deceased Selvam)
Rs.61,657/-

6. In the result, the appeal is partly allowed by enhancing the compensation to Rs.5,61,657/- from Rs.5,06,254/-. The respondent / Transport Corporation is directed to deposit the enhanced award amount now determined by this Court along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, excluding 430 days referred to supra 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.168 of 2012, on the



file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal. On such deposit, the appellants 2 & 5 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 applications before the Tribunal. So far as the appellants 3 & 4 (minors) are concerned, their shares together with interest should be deposited in a fixed deposit in a nationalised bank initially for a period of three years and the second appellant is permitted to withdraw the accrued interest periodically once in six months. The appellants are directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. No costs.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Namakkal.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.48936

C.M.A.No.142 of 2016
and C.M.P.No.5869 of 2020

CA(CO)
RLP(04/04/2022)