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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.Nos.3309 of 2019 & 870 of 2020

and

C.M.P.No.19237 of 2019 in C.M.A.No.3309 of 2019

C.M.A.No.3309 of 2019

Tamil Nadu State Transport Corporation
by its Manager,
Trichy.

...Appellant/Respondent

Vs.

1. Rajeswari
W/o. Kasthuri

2. Viswanathan,
S/o.Kasthuri

3. Vignesh,
S/o. Kasthuri

4. Minor Dhanasekar
S/o.Kasthuri
(Rep. by his Next friend guardian
mother Rajeshwari)

...Respondents/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Decree and Judgment dated 09.01.2019 made in M.C.O.P.No. 1261 of 2014 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Namakkal and be pleased to dismiss the above claim as against the appellant.

C.M.A.No. 870 of 2020

1. Rajeswari
W/o. Kasthuri

2. Viswanathan,
S/o.Kasthuri

3. Vignesh,
S/o. Kasthuri



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4. Minor Dhanasekar
S/o.Kasthuri
(Minor is represented by his
Next friend guardian
mother 1st appellant)

...Appellants/Petitioners

-Vs-

The Managing Director,
Tamil Nadu State Transport Corporation
Periya Milagupparai,
Trichy (Kumbakonam Division-2)

...Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award against the judgment and decree dated 09.01.2019 in M.C.O.P.No.1261 of 2014 on the file of Motor Accidents Claims Tribunal/ Principal District Court, Namakkal.

C.M.A.No.3309 of 2019

For Appellant : Mr.L.Ramanathan
For Mr.D.Venkatachalam

For Respondents: Mr.C.Thangaraju

C.M.A.No.870 of 2020

For Appellants : Mr.C.Thangaraju

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

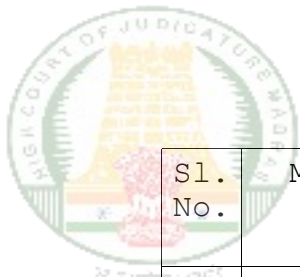
COMMON JUDGMENT

By this Common Order both the appeals are being disposed of.

2. CMA No.3309 of 2019 has been filed by the State Transport Corporation questioning the liability fixed on the appellant/ State Transport Corporation.

3. CMA No.870 of 2020 has been filed by the claimants for enhancement of compensation by the impugned Judgment and decree dated 09.01.2019 in MCOP No.1261 of 2014.

4. The Tribunal has awarded a sum of Rs.8,05,376/- as detailed below:-



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Sl. No.	Monthly Income	Income after deduction	Total Monthly Income	Multiplier	Loss of Dependency
1	Rs.6,000/-	6000x¼ i.e. Rs.6000 -1500 = Rs.4500/-	Rs.4500	11	Rs.4500x12x11 =Rs.5,94,000/-
2	Future Prospects 10%				Rs.59,400/-
3	Loss of Estate				Rs.15,000/-
4	Funeral Expenses				Rs.15,000/-
5	Loss of Consortium				Rs.40,000/-
6	Medical Bills (Ex.P4 series)				Rs.81,976/-
	Grand Total				Rs.8,05,376/-

5. The learned Counsel for the State Transport Corporation (Appellant in CMA No.3309 of 2019) submits that the tribunal ought not to have fixed the liability on the State Transport Corporation. He submits that the FIR was filed against the deceased as he was riding the motorcycle in a rash and negligent manner and was trying to cross the National High Way without seeing the bus coming on the High Way.

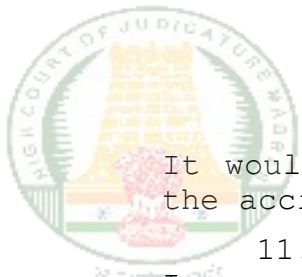
6. On the other hand, the impugned Judgment and decree defended on this Court by the learned Counsel for the claimants who are the respondents in CMA No.3309 of 2019 and appellants in CMA No.870 of 2020 on the ground that both the eyewitnesses i.e. P.W.2 and P.W.3 have uniformly confirmed that the driver of the State Transport Corporation bus was negligent and caused the accident. They also pray for enhancement of compensation.

7. I have perused the depositions of P.W.2 and P.W.3. The depositions of P.W.2 and P.W.3 had not been discredited by the State Transport Corporation before the tribunal. The tribunal being the ultimate fact finding authority, the finding on the facts cannot be disturbed in an appeal filed under Section 173 of Motor Vehicle Claims Act 1988.

8. Therefore, to that extent, the impugned Judgment and decree holding the driver of the State Transport Corporation Bus liable for the accident is upheld.

9. In the result, the CMA No.3309 of 2019 filed by the State Transportation Corporation is liable to be dismissed and accordingly, the Civil Miscellaneous Appeal No.3309 of 2019 stands dismissed. No costs.

10. As far as the quantum of compensation which is the subject matter of CMA No.870 of 2020 is concerned, it is noticed that the tribunal has determined the above compensation by considering a very low notional income of Rs.6,000/- per month.



It would be fair to assume a notional income of Rs.12,000/- as the accident is of the year 2014.

11. The Hon'ble Supreme Court in Syed Sadiq Vs. United India Insurance Co. Ltd., (2014) 2 SCC 735, was concerned with an accident of the year 2008 and there the notional income of a Vegetable Vendor was fixed as Rs.6,500/-. The value of money has been steadily decreased due to the inflation.

12. Therefore, I am of the view that for the purpose of awarding Just compensation, the notional income of the deceased can be considered as Rs.12,000/- per month even though, the deceased Kasthuri was an Agriculture Coolie, notwithstanding with the fact that no document has been produced before the tribunal to substantiate the income of the deceased.

13. The fact that the deceased was in possession of two wheeler which shows that the standard of living had increased during the period of last two decades and that possession of two wheeler by ordinary citizens has become reality in the country.

14. In the light of the above discussion, the compensation awarded by the tribunal is recomputed as follows:-

Heads and Calculation	Amount
Loss of earning capacity:- MonthlyIncome : Rs.12,000/- Add: Future Prospects at 10% (12,000 x 10/100) : Rs. 1,200/- ----- : Rs.13,200/- Less: Personal Expenses 1/4 th (13,200x1/4) : Rs. 3,300/- ----- : Rs. 9,900/- Annual Contribution to the family (9,900x12) : Rs.1,18,800/- Multiplier11(1,18,800x11) :Rs.13,06,800/-	Rs.13,06,800/-
Loss of Estate	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-
Loss of Consortium	Rs. 40,000/-
Medical Expenses	Rs. 81,976/-
Towards Parental Consortium (Rs.40,000/- each)	Rs.1,20,000/-
Total	Rs.15,78,776/- Rounded off to Rs.15,79,000/-



15. It is noticed that by order dated 12.02.2020 this Court had ordered exemption of Court fee for the purpose of numbering the appeal but to be paid at a later stage. Therefore, the 1st appellant/1st claimant is directed to deposit the deficit court fee before this court within a period of four weeks from today. Only on such deposit and payment of deficit court fee, the Registry shall draft the decree of this Judgement.

16. The State Transport Corporation (Respondent in CMA No.870 of 2020)/the appellant in CMA No.3309 of 2019 is directed to deposit the aforesaid amount of compensation of Rs.15,79,000/- to the credit of MCOP No.1261 of 2014 before the Motor Accident Claims Tribunal, Principal District Judge, Namakkal, 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 eight weeks from the date of receipt of a copy of this Judgment.

17. On such deposit being made by the State Transport Corporation and on payment of deficit Court fees, the appellant/claimants are permitted to withdraw their shares together with interest accrued thereon, less any amount already withdrawn in the same proportion as was ordered by the Tribunal. While filing such application, the appellants/claimants shall produce a certified copy of the decree of this Judgement as a proof of having paid the deficit court fee.

18. Accordingly, C.M.A.No.3309 of 2019 is dismissed and C.M.A.No.870 of 2020 is Allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ksa-2

To:

1. Motor Accident Claims Tribunal,
Principal District Court, Namakkal.

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

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.28388

+2cc to Mr.C.Thangaraju, Advocate, S.R.No.28668 (25/11/2021)

C.M.A.Nos. 3309 of 2019 & 870 of 2020

PP (CO)

RGA (24/11/2021)