



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2205 of 2021

1. Sharfunnisha

2. S. Saleem

... Appellants/Claimants

vs.

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd., Railway Station Road,
Kumbakonam - 612 001.

...Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in MCOP No. 1320 of 2018 dated 15.02.2021 on the file of the Motor Accident Claims Tribunal / I Additional Sub Judge, Cuddalore.

For Appellants : Ms.Ramya V Rao

For Respondent : Mr.D.Venkatachalam

JUDGMENT

This Appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 15.02.2021 passed by the Motor Accident Claims Tribunal (I Additional Sub Judge, Cuddalore) in MCOP No.1320 of 2018 .

2. The Appellants who are the dependants of the deceased Ansar Ali who died on 10.12.2017 as a result of an accident caused by a bus owned by the respondent Transport Corporation, have preferred this Appeal seeking for enhancement of compensation for the death of Ansar Ali.

3. The Tribunal under the impugned Award directed the respondent to pay a compensation of Rs.14,37,800/- to the Appellants as detailed hereunder.



Heads	Amount Awarded by Tribunal (in Rs.)
Loss of dependency	13,60,800/-
Loss of Love and affection	44,000/-
Funeral Expenses	16,500/-
Loss of Estate	16,500/-
Total	14,37,800/-

4. The deceased was aged 19 years and he was working as an A/C mechanic and he was holder of 3 diplomas namely

a. ITI Computer Examination Certificate (Character - Good, Marks - 150/200 (75%))

b. ITI Examination Certificate (Character - Good, Marks - 170/200 (85%))

c. Industrial School Certificate for Mechanic Refrigeration & A.C. (Marks - 135/200)

5. The Diploma certificates of the deceased were marked as Ex. A8, Ex.A9 & Ex.A10 before the Tribunal. The accident happened in the year 2017. The Tribunal has fixed the notional monthly income of the deceased at Rs.9,000/- which in the considered view of this Court is low as the Tribunal has not taken into consideration the avocation and the educational qualification of the deceased. This Court after giving due consideration to the avocation of the deceased who was an A/C mechanic and after giving due consideration to his educational qualification stated supra is of the considered view that the notional monthly income of the deceased will have to be enhanced to Rs.12,000/- instead of Rs.9,000/- erroneously fixed by the Tribunal. The Tribunal has awarded 40% towards loss of future prospects to the Appellants / claimants which in the considered view of this Court is a correct assessment and the same is confirmed by this Court. The Tribunal has also rightly adopted 18 multiplier as the deceased was aged 19 years at the time of the accident and the same is also confirmed by this Court. Since the deceased was a bachelor at the time of the accident, the Tribunal has rightly deducted 50% towards personal expenses of the deceased and the same is confirmed by this court. Since the notional monthly income of the deceased is enhanced by this Court to Rs.12,000/-, this Court re-assesses the loss of



dependency at Rs.18,14,400/- instead of Rs.13,60,800/- fixed by the Tribunal.

6. The Tribunal has awarded a compensation of Rs.44,000/- towards loss of love and affection which in the considered view of this Court is low. Since the dependants are two in number, the Tribunal ought to have awarded Rs.88,000/- instead of awarding only Rs.44,000/- towards loss of love and affection which is applicable for only one of the dependants. Accordingly, this Court enhances the compensation towards loss of love and affection to Rs.88,000/- instead of Rs.44,000/- erroneously fixed by the Tribunal.

7. The Tribunal has awarded a compensation of Rs.16,500/- towards funeral expenses and Rs.16,500/- towards loss of estate which is also a correct assessment and the same is confirmed by this Court.

8. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced to Rs.19,35,400/- instead of Rs.14,37,800/- fixed by the Tribunal as detailed hereunder.

Heads	Awarded by the Tribunal in Rs.	Awarded by this Court in Rs.
Pecuniary Loss	13,60,800/-	18,14,400/-
Loss of Love and affection	44,000/-	88,000/-
Transport expenses	---	---
Funeral Expenses	16,500/-	16,500/-
Loss of Estate	16,500/-	16,500/-
Total	14,37,800/-	19,35,400/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the award amount from Rs.14,37,800/- to Rs.19,35,400/-. Accordingly, the respondent Transport Corporation is directed to deposit the amount awarded by this Court, after deducting the amount already deposited, if any, together with interest from the date of claim till the date of deposit and cost to the credit of MCOP.No.1320 of 2018 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the respective share of award amount lying to the



credit of MCOP No.1320 of 2018 to the bank of the Appellants/claimants through RTGS as per the ratio apportioned by the Tribunal within a period of one week thereafter. No Costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ab/nl

To

1.The I Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Cuddalore.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.48490
+2cc to Mr.Ramya V Rao, Advocate SR.No.48718

C.M.A.No.2205 of 2021

GP(CO)
GN(14/12/2021)