



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA Nos.2983 of 2014 and 1174 of 2016
and
CMP No.8871 of 2016

Katuru Bindu Amma

... Appellant in
CMA No.2983 of 2014
and Respondent in
CMA No.1174 of 2016 (Petitioner)

Versus

Metropolitan Transport Corporation
(Chennai Division) Ltd.,
rep. by its Managing Director,
Pallavan Salai,
Chennai - 600 002.

... Respondent in
CMA No.2983 of 2014
and Appellant in
CMA No.1174 of 2016 (Respondent)

Prayer in CMA No.2983 of 2014 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 22.04.2014 in MACTOP No.1382 of 2011, on the file of the IV Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

Prayer in CMA No.1174 of 2016 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act to set aside the judgment and decree made in M.C.O.P. No.1382 of 2011, dated 22.04.2014 on the file of the Motor Accidents Claims Tribunal (IV Court of Small Causes), Chennai.



WEB COPY

For Appellant
in CMA No.2983 of 2014
and respondent in
CMA No.1174 of 2016 : Mr. R. Kalaiarasan

For Appellant
in CMA No.1174 of 2016
and respondent in
CMA No.2983 of 2014 : Mr.S.Sivakumar

COMMON JUDGMENT

(Heard Video Conference)

CMA No.2983 of 2014 has been filed by the claimants seeking enhancement of compensation awarded under the impugned award dated 22.04.2014 passed by the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai in MACTOP No.1382 of 2011.

2.CMA No.1174 of 2016 has been filed by the Transport Corporation challenging the very same award passed by the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai in MACTOP No.1382 of 2011. Aggrieved by the quantum of compensation awarded by the Tribunal as according to them, it is excessive.

3. The details of the compensation awarded by the Tribunal under the impugned award are as follows :-

Heads	Amount awarded by the Tribunal (Rs.)
Pecuniary loss is calculated as Rs.3,000 x 12 x 5	1,80,000
Loss of love and affection to the petitioner	50000
Funeral expenses	15000
Total	2,45,000

4. Heard Mr.R. Kalaiarasan, learned counsel for the appellant / claimant in CMA No.2983 of 2014 as well as the learned counsel for the respondent in CMA No.1174 of 2016 and



WEB COPY

Mr.S.Sivakumar, learned counsel for the appellant /Transport Corporation in CMA No.1174 of 2016 as well as the learned counsel for the respondent / Transport Corporation in CMA No.2983 of 2014.

5. This Court has perused the materials and evidence available on record before the Tribunal.

6. In the claim petition, the claimant has pleaded that the deceased Katuru Tulasi Rao @ Sankar was a Mason, aged 21 years and was earning Rs.500/- per day at the time of an accident, which happened on 03.01.2011.

7. Before the Tribunal, the claimant has filed three documents, which were marked as Exs.P1 to P3 and two witnesses were examined on her side viz., the claimant herself as PW1 and a Co-employee cum eye witness to the accident as PW2. On the side of the Transport Corporation, the Driver of the bus, who caused the accident was examined as RW1. But no documents were filed on their side.

8. The Tribunal assessed the notional monthly income of the deceased at Rs.6,000/-. The accident happened in the year 2011. The deceased was a Mason. No contra evidence has also been produced by the Transport Corporation to disprove the contention of the claimant that the deceased was a Mason. If the Tribunal has given due consideration to the year of the accident, it would have fixed the notional monthly income of the deceased at an higher sum. This Court is of the considered view that for an accident that happened in the year 2011, the correct assessment of the notional monthly income for a Mason would have been Rs.7,500/-. Accordingly, this Court fixes the notional monthly income of the deceased at Rs.7,500/- instead of Rs.6,000/- fixed by the Tribunal.

9. The Tribunal has erroneously adopted 5 multiplier by taking into consideration the age of the mother of the deceased viz., the claimant instead of the age of the deceased himself, who was aged 21 years at the time of the accident. It is settled law while adopting multiplier, the age of the deceased must be taken into consideration and not the age of the mother of the deceased. If the age of the deceased was taken into consideration, the correct multiplier that will have to be



adopted for a person aged 21 years is 18. Accordingly, this Court modifies the multiplier to 18 instead of 5 erroneously adopted by the Tribunal.

WEB COPY

10. The Tribunal has failed to award any compensation towards loss of future prospects to the claimant, which she is legally entitled to as per the decision of the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Sethi & others reported in 2017 16 SCC 680. In accordance with the said judgment, this Court awards a compensation of 40% to the claimant towards loss of future prospects.

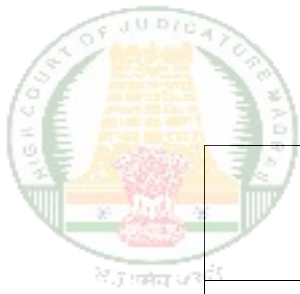
11. Being a bachelor, the Tribunal has rightly deducted 50% towards personal expenses of the deceased, which is confirmed by this Court.

12. The Tribunal has erroneously awarded a compensation of Rs.50,000/- towards loss of love and affection, which is not in accordance with Pranay Sethi's case referred to supra, which has fixed the same at Rs.40,000/-. Accordingly, the compensation towards loss of love and affection is reduced to Rs.40,000/- from Rs.50,000/-, fixed by the Tribunal.

13. With regard to the compensation of Rs.15,000/- awarded by the Tribunal towards funeral expenses is concerned, the same is confirmed by this Court, as it is in accordance with settled law.

14. The claimant is legally entitled for loss of estate in accordance with the settled law. However, the Tribunal has erroneously failed to award any compensation towards the said head. Accordingly, this Court awards a compensation of Rs.15,000/- to the claimant towards loss of estate in accordance with the settled law.

15. For the foregoing reasons, the award of the Tribunal is hereby enhanced in the following manner :



WEB COPY

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Pecuniary loss is calculated as * Rs.3,000 x 12 x 5 # Rs.7,500 + 40% Less 50% x 12 x 18	180000 *	1134000 #
Loss of love and affection to the petitioner	50000	40000
Funeral expenses	15000	15000
Loss of estate	-	15000
Total	245000	1204000

16. Since, the compensation awarded by the Tribunal is enhanced by this Court, there is no merit in the appeal filed by the Transport Corporation in CMA No.1174 of 2016, wherein their only contention is that the quantum of compensation awarded by the Tribunal is excessive.

17. In the result, the appeal filed by the appellant / claimant in CMA No.2983 of 2014 stands partly allowed by enhancing the compensation from Rs.2,45,000/- to Rs.12,04,000/-, as indicated above and the appeal filed by the appellant / Transport Corporation in CMA No.1174 of 2016 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18. The appellant in CMA No.1174 of 2016 as well as the respondent in CMA No.2983 of 2014 / Transport Corporation is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MACTOP No.1382 of 2011, on the file of the IV Small Causes Court (Motor Accidents Claims Tribunal), Chennai, within a period of twelve weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the respondent in CMA No.1174 of 2016 as well as the appellant in CMA No.2984 of 2014 /claimant,



WEB COPY

through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellant in CMA No.2984 of 2014 / claimant before receiving the copy of this Judgment.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Judge,
IV Court of Small Causes,
Motor Accident Claims Tribunal,
Tiruvallur.

2. The Section Officer,
V.R. Section
High Court of Madras, Chennai - 104.

+1cc to M/s.N.M.Muthurajan, Advocate, S.R.No.31820

CMA Nos.2983 of 2014
and 1174 of 2016

MG(CO)
SB(26/10/2021)