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C.M.A.Nos.419 and 2195 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.Nos.419 and 2195 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(VPM Divn-1) 3, 137,
Salavedu Vazhuthreddy Post,
Villupuram – 605 01

.. Appellant in C.M.A.No.2195 of 2022
Respondent in C.M.A.No.419 of 2022

-Vs.-

1. G. Sangeetha
2. Minor G.Vimalravi
3. Minor G. Kirthika

(Minors represented by mother,
Guardian, next friend G.Sangeetha
the 1st petitioner)

.. Appellants in C.M.A.No.419 of 2022
Respondents in C.M.A.No.2195 of 2022

Prayer in both C.M.As: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 19.11.2021 made in M.C.O.P.No.3036 of 2018 on the file of the Motor Accident Claims Tribunal, The Principal District Judge, Cuddalore.



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For Appellant
in C.M.A.No.2195 of 2021 ... Mr.K.J.Sivakumar
For Respondent
in C.M.A.No.419 of 2022

For Appellant in
C.M.A.No.419 of 2022
For Respondent-1 M/s.Ramya V.Rao
in C.M.A.No.2195 of 2022

For Respondents-2 & 3 Minors rep by R1
in C.M.A.No.419 of 2022

COMMON JUDGMENT

The two appeals arise against the Award passed by the Motor Accident Claims Tribunal, Principal District Judge, Cuddalore in M.C.O.P.No.3036 of 2018.

2. The Transport Corporation has challenged the Award stating that it is excessive by filing C.M.A.No.2195 of 2002. On the other hand, the petitioners have filed C.M.A.No.419 of 2022 seeking enhancement.



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3. The petitioners before the Tribunal are the wife and two minor children of the deceased Gurumoorthy, who died in a road accident on 03.04.2018. The petitioners had claimed that the deceased was 36 years old at the time of the accident and was working as a contract labourer in Neyveli Lignite Corporation Limited, Neyveli. The monthly income that was pleaded was a sum of Rs.40,000/- and therefore they had claimed a total compensation of Rs.35,00,000/-. The Tribunal had adopted a notional income of Rs.12,000/- to which, future prospects of 40% was added and the annual income was a sum of Rs.2,01,600/-, from out of which, 1/3rd has to be deducted towards personal expenses and a multiplier of 15 was adopted. A sum of Rs.20,16,000/- was awarded under the head of loss of income. The petitioners had filed C.M.A.No.2195 of 2022 seeking enhancement and the Transport Corporation has filed C.M.A.No.419 of 2022 challenging the quantum.

4. The learned counsel for the petitioners would submit that as per Ex.P15, the income of the deceased per day was a sum of Rs.526.22. Therefore, the monthly income would work out to a sum of Rs.13,676/- to



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which, future prospects of 40% to be added and 1/3rd future prospects can be deducted and multiplier of 15 to be adopted. That apart, the amounts under the heads of loss of consortium and loss of love and affection are not in consonance with the judgment of the Hon'ble Supreme Court reported in (2017) 16 SCC 680 [*National Insurance Company Ltd., -vs- Pranay Sethi and Others*).

5. The learned counsel for the Transport Corporation would deny the allegations made by the learned counsel for the petitioners and would state that the notional income arrived at by the Tribunal is well within the reasonable figure.

6. Heard the learned counsel on either side and perused the materials available on record.

7. From a perusal of the records, it is clear that as per Ex.P15- Bank Statement, the salary of the deceased per day would be a sum of Rs.526.22, which would work out to a monthly income of Rs.13,676/-, to which 40%



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has to be added towards future prospects. Therefore, the monthly income would be a sum of Rs.19,146/-, from out of which $\frac{1}{3}$ rd towards personal expenses is to be deducted and multiplier of 15 is adopted. Therefore, the loss of income would be a sum of Rs.22,97,520/- (Rs.19,146 x 12 x 15 – $\frac{1}{3}$). Under the head of consortium, only a sum of Rs.30,000/- has been granted, which is now enhanced to a sum of Rs.40,000/-. Likewise, the amount under the head of love and affection is also enhanced to a sum of Rs.80,000/-. The amounts given under the head of funeral expenses and loss to estate are adequate. The enhanced award is as follows:-

<i>Heads</i>	<i>Amount by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Loss of income	20,16,000	22,97,520
Loss of consortium	30,000	40,000
Loss of love and affection	40,000	80,000
Funeral expenses	15,000	15,000
Loss to Estate	15,000	15,000
Total	21,16,000	24,47,520

9. **C.M.A.No.419 of 2022** is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount



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from **Rs.21,16,000** to **Rs.24,47,520**. The respondent-Transport Corporation

is directed to deposit the said amount to the credit of M.C.O.P.No.3036 of 2018 along with interest at the rate of **8%** per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The said amount shall be apportioned amongst the claimants as per the Award of the Tribunal. On such deposit being made, the claimants are permitted to withdraw the award amount, along with accrued proportionate interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. The share of the minors shall be deposited in any one of the nationalized bank till they attain majority and the first petitioner shall be permitted to withdraw quarterly interest from the said amount. The claimants are directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimants. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as



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to costs in the present appeal. Consequently connected miscellaneous petition is closed. **C.M.A.No.2195 of 2002** is dismissed.

09.11.2022

srn

To

1. The Motor Accident Claims Tribunal,
The Principal District Judge, Cuddalore.
2. The Section Officer,
V.R.Section, High Court, Madras.



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P.T.ASHA, J.,

srn

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