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C.M.A.No.2513 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.2513 of 2013

1. Kaliyammal
2. Minor Nagamani
3 Minor Chitra
(Minors are represented by their
next friend guardian and mother, Kaliyammal) .. Appellants

-Vs.-

1. Maranan
2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Coimbatore. .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 07.03.2006 made in M.C.O.P.No.165 of 2005 on the file of the MACT/FTC-2 at Gobichettipalayam.

For Appellants : Mr. Ma.P.Thangavel

For Respondents : Ms.R.T.Sundari [R2]
R1 – Served-No Appearance



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JUDGMENT

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The petitioners are the appellants herein seeking enhancement of the compensation granted to them by the Motor Accident Claims Tribunal, FTC Court No.II in M.C.O.P.No.165 of 2005 dated 07.03.2006.

2. The parties are referred to in the same array as before the Tribunal. The facts are briefly set out herein below:

The petitioners had filed the above O.P claiming compensation of a sum of Rs.6,00,000/- for the death of one Nanjan @ Pappanan, the husband of the first petitioner, the father of the appellants 2 and 3. It is their case that the said Nanjan @ Pappanan was employed as a night watchman/coolie and doing milk business and earning a sum of Rs.7,500/- from the aforesaid activities. They would submit that on 06.07.2004 at about 15.45 hours, when the deceased was walking on the Karamadai Road, Mettupalayam and as he neared the forest office, the first respondent, who is the driver of the second respondent's bus bearing Registration No.TN38 N 0950 came from the opposite direction. The vehicle was being driven in a rash and negligent manner by its driver and on account of the rash driving, it had dashed the



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deceased causing head injuries and injuries all over the body, later the said Nanjan @ Pappanan succumbed to the injuries, while at the hospital.

3. The Transport-Corporation had filed a counter denying the liability and also stated that the quantum of compensation granted by the Tribunal is on the higher side.

4. The Tribunal, after considering the evidence on record, held that the accident had occurred only on account of the negligence on the part of the driver of the second respondent's bus. The Tribunal had taken a notional income of Rs.15,000/- per annum. Aggrieved by the same, the petitioners are before this Court.

5. The learned counsel for the appellants/petitioners had produced the judgment of the Hon'ble Supreme Court reported in **2011(2) TNMAC 190(SC) [Sri Ramachandrappa Vs. The Manager, Royal Sundaram, Alliance Insurance Company Limited]** wherein the deceased was a coolie and the Hon'ble Supreme Court has held that in the year 2004, a daily coolie



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would earn between Rs.100 to Rs.150 per day or Rs.4,000 per month and they had adopted a sum of Rs.4,500/- as a monthly income.

6. The learned counsel for the second respondent-Transport Corporation would submit that the accident is of the year 2004 and the judgment of the Hon'ble Supreme Court, reported in **(2017) 16 SCC 680 [National Insurance Company Ltd., -vs- Pranay Sethi and Others]** had not been pronounced and therefore, the amount under the conventional heads may not be granted. However, the Hon'ble Supreme Court in its judgment reported in **(2018) 17 SCC 109 [Nutan Rani and Another Vs. Gurmail Singh and Others]** while considering the compensation in respect of an accident that took place in the year 1994 held that the ratio laid down in **Pranay Sethi's** case can be adopted and granted compensation for future prospects to the claimants therein. The same shall apply in the instant case as well.

7. Heard the learned counsel for the appellants and the learned counsel for the second respondent-Insurance Company.



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8. Therefore, considering the fact that even in the instant case, the deceased is stated to be a coolie, the monthly income would be fixed at a sum of Rs.4,500/-, to this future prospects of 25% has to be added and therefore, the notional income per month would be a sum of Rs.5,625/-. The annual income would be a sum of Rs.67,500/-, out of which, 1/3rd has to be deducted towards the personal expenses. Therefore, a sum of Rs.45,000/- would be available to the family per annum. The deceased was aged about 44 years and the appropriate multiplier is 14. Therefore, the amount under the head of loss of earning would be a sum of Rs.6,30,000/-. The Tribunal has awarded a sum of Rs.25,000/- towards loss of consortium, which has to be enhanced to a sum of Rs.40,000/-. Likewise, the 2nd and 3rd petitioners had been granted only a sum of Rs.20,000/- towards the loss of love and affection and the same is enhanced to a sum of Rs.80,000/-. Only a sum of Rs.5,000/- has been granted towards the funeral expenses, which shall be enhanced to a sum of Rs.15,000/-. The petitioners are entitled to a sum of Rs.15,000/- under the head of loss of estate. Therefore, the total compensation is enhanced to a sum of Rs.7,80,000/-. Therefore, the



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re-worked compensation would be as follows:-

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<i>Heads</i>	<i>Amount by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Loss of earnings	1,60,000	6,30,000
Loss of Consortium	25,000	40,000
Loss of love and affection	20,000	80,000
Funeral expenses	5,000	15,000
Loss of Estate	-	15,000
Total	2,10,000	7,80,000

9. Therefore, this Civil Miscellaneous Appeal is partly allowed and the compensation of **Rs.2,10,000/-** awarded by the Tribunal is hereby enhanced to a sum of **Rs.7,80,000/-** together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The respondents are directed to deposit the said amount to the credit of M.C.O.P.No.165 of 2005 along with interest at the rate of 7.5% 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



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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 to costs in the present appeal.

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To

1. The Motor Accident Claims Tribunal
/ Chief Judicial Magistrate, Cuddalore
2. The Section Officer,
V.R.Section, High Court, Madras.



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P.T.ASHA, J.,

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