



WEB COPY



C.M.A.No.1989 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2022

CORAM:

THE HONOURABLE **MS.JUSTICE V.M.VELUMANI**
and
THE HONOURABLE **MR.JUSTICE S.SOUNTHAR**

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1.Karthiga

2.Minor Balasri

(Minor 2nd appellant represented by his
mother Karthiga as natural guardian
and next friend)

3.Thamaraiselvi

4.Bala Krishnan

... Appellants

Vs.

The Managing Director
TNSTC (Villupuram) Limited
No.3/137, Salamedu
Valudareddy Post
Villupuram – 605 602.

... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor
Vehicles Act, 1988, against the judgment and decree dated 05.11.2020 made



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in M.C.O.P.No.3862 of 2018 on the file of Motor Accident Claims Tribunal,

Principal Special Judge, Special Court under EC and NDPS Act, Chennai-

104.

For Appellant : Mrs.A.Subadra
for Ms.M.Malar

For Respondent : Mr.K.J.Sivakumar

J U D G M E N T

(Judgment of the Court was delivered by V.M.VELUMANI,J.)

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 05.11.2020 made in M.C.O.P.No.3862 of 2018 on the file of Motor Accident Claims Tribunal, Principal Special Judge, Special Court under EC and NDPS Act, Chennai-104.

2.The appellants are claimants in M.C.O.P.No.3862 of 2018 on the file of Motor Accident Claims Tribunal, Principal Special Judge, Special Court under EC and NDPS Act, Chennai-104. They filed the said claim petition claiming a sum of Rs.1 Crore as compensation for the death of one Karthikeyan, who died in the accident that took place on 04.06.2018.

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3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of bus belonging to the respondent/Transport Corporation and directed the respondent/Transport Corporation to pay a sum of Rs.17,45,000/- as compensation to the appellants.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellants contended that the deceased Karthikeyan was a B.E. degree holder, he was doing water proofing work at the time of accident and was earning a sum of Rs.30,000/- per month. The deceased was appointed as Trainee in Rane TRW Steering Systems Limited and he has completed the course in February 2013 as Diploma Trainee. The Tribunal without considering the same, fixed only a meagre sum of Rs.10,000/- per month as notional income of the deceased. The deceased Karthikeyan was aged 29 years at the time of accident. The Tribunal has not



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granted any enhancement towards future prospects and any compensation towards loss of estate. The amounts awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the respondent/Transport Corporation contended that the appellants have not filed any document to prove the avocation and income of the deceased. In the absence of any material with regard to avocation and income of the deceased, the Tribunal fixed a sum of Rs.10,000/- per month as notional income of the deceased, which is excessive. The Tribunal after considering all the materials on record, awarded compensation, which is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondent/Transport Corporation and perused the entire materials available on record.



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8.It is the contention of the appellants that the deceased Karthikeyan was a B.E. degree holder, he was appointed as Trainee in Rane TRW Steering Systems Limited and he has completed the course in February 2013 as Diploma Trainee. To prove the said contention, the appellants have marked course completion certificate and training completion certificate as Exs.P6 and P7 respectively. At the time of accident, the deceased was doing water proofing work and was earning a sum of Rs.30,000/- per month. The appellants failed to substantiate the said contention. The Tribunal in the absence of any evidence with regard to avocation and income of the deceased, fixed a sum of Rs.10,000/- per month as notional income of the deceased. The accident is of the year 2018 and the notional income fixed by the Tribunal is meagre. Considering the age and nature of work done by the deceased, a sum of Rs.13,000/- per month is fixed as notional income of the deceased. As per Ex.P4/Post-mortem certificate, the deceased was aged 29 years at the time of accident. The Tribunal, following the judgment of the Hon'ble Apex Court reported in **2009 (2) TNMAC 1 SC (Sarla Verma and others vs. Delhi Transport Corporation and another)**, has rightly applied multiplier '17'. The Tribunal failed to grant any enhancement towards future



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prospects of the deceased. As per the judgment of the Hon'ble Apex Court

reported in **2017 (2) TN MAC 609 (SC) [National Insurance Co. Ltd., Vs.**

Pranay Sethi and others], the appellants are entitled to 40% enhancement towards future prospects. There are four dependants of the deceased and the Tribunal has rightly deducted 1/4 towards personal expenses. Thus, by fixing Rs.13,000/- as monthly income of the deceased and granting 40% enhancement towards future prospects, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.27,84,600/- ($\text{Rs.13,000/-} + 5200 [\text{Rs.13,000/-} \times 40\%] \times 12 \times 17 \times 3/4$). In addition to that, the Tribunal has awarded Rs.50,000/- towards loss of consortium to the 1st appellant and Rs.50,000/- each towards loss of love and affection to the appellants 2 to 4, which are excessive. In view of the excessive amounts awarded by the Tribunal, the appellants are not entitled to any compensation towards loss of estate. A sum of Rs.15,000/- awarded by the Tribunal towards funeral expenses is just and reasonable and hence, the same is hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	15,30,000	27,84,600	Enhanced
2.	Loss of consortium to the 1 st appellant	50,000	50,000	Confirmed
3.	Loss of love and affection to the appellants 2 to 4	1,50,000	1,50,000	Confirmed
4.	Funeral expenses	15,000	15,000	Confirmed
	Total	17,45,000	29,99,600	Enhanced by Rs.12,54,600/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.17,45,000/- is hereby enhanced to Rs.29,99,600/- together with interest at the rate of 7.5% per annum (excluding the lock down period from 01.03.2020 to 30.09.2020) from the date of petition till the date of deposit. The respondent/Transport Corporation is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any,



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within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants 1, 3 and 4 are permitted to withdraw their respective share of the award amount now determined by this Court, as per the apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn. The share of the minor/2nd appellant is directed to be deposited in any one of the Nationalised Banks till the minor attains majority. The 1st appellant, mother of the minor/2nd appellant is permitted to withdraw the accrued interest once in three months for the welfare of the minor. The appellants are directed to pay the necessary Court fee on the enhanced award amount, as per the order of this Court dated 07.07.2021 made in C.M.P.No.9796 of 2021 in C.M.A.SR.No.44168 of 2021. No costs.

(V.M.V., J) (S.S., J)
17.06.2022

Index : Yes / No
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**V.M.VELUMANI,J.
and
S.SOUNTHAR,J.**

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To

1.The Principal Special Judge
Motor Accident Claims Tribunal
Special Court under EC and NDPS Act
Chennai-104.

2.The Section Officer
VR Section
High Court
Madras.

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