



WEB COPY



C.M.A.Nos.1154 and 2199 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.Nos.1154 and 2199 of 2022

and

C.M.P.No.17068 of 2022

C.M.A.No.1154 of 2022

1.Yamuna
2.M.Arunkumar
3.M.Varunkumar
4.M.Chandradoss

... Appellants

vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Villupuram Divn.I),
3/137, Salamedu, Vazhuthareddy Post,
Villupuram-605 402.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree in M.C.O.P.No.4194 of 2018 dated 23.12.2021 on the file of the Motor Accident Claims Tribunal / Additional Sub Judge, (FAC), Cuddalore.

For Appellants : Mrs.Ramya V.Rao
For Respondent : Mr.K.J.Sivakumar



C.M.A.Nos.1154 and 2199 of 2022

C.M.A.No.2199 of 2022

WEB COPY

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Villupuram Divn.I),
3/137, Salamedu, Vazhuthareddy Post,
Villupuram-605 402.

... Appellant

VS.

1.Yamuna
2.M.Arunkumar
3.M.Varunkumar
4.M.Chandradoss

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree in M.C.O.P.No.4194 of 2018 dated 23.12.2021 on the file of the Motor Accident Claims Tribunal / Additional Sub Judge, (FAC), Cuddalore.

For Appellant : Mr.K.J.Sivakumar
For Respondents : Mrs.Ramya V.Rao

JUDGMENT

The above appeals arise out of a single accident and therefore a common judgment is being pronounced.



C.M.A.Nos.1154 and 2199 of 2022

2. C.M.A.No.1154 of 2022 is filed by the petitioners in M.C.O.P.No.4194 of 2018 dated 23.12.2021 on the file of the Motor Accident Claims Tribunal / Additional Sub Judge, (FAC), Cuddalore and C.M.A.No.2199 of 2022 is filed by the respondent / Transport Corporation challenging the award of the Tribunal.

3. The brief facts which is necessary for disposing the above appeals are herein below set out and the parties are referred to in the same ranking as before the Tribunal.

4. The petitioners had filed the above referred claim petition seeking enhancement for the death of one Murugan, the husband of the 1st petitioner and father of the petitioners 2 to 4 in a road accident on 22.07.2018. The petitioners would contend that on the said date, the deceased was walking on the extreme end of the road when the respondent / Transport Corporation's bus bearing Reg.No.TN-32-N-3580 which was driven in a rash and negligent manner and at a great speed dashed against the deceased, as a result of which, he had sustained fatal injuries and had later succumbed to his injuries.



C.M.A.Nos.1154 and 2199 of 2022

5. The petitioners would contend that the deceased Murugan was aged about 53 years, employed in the Hotel Aryas at Puducherry and earned Rs.15,000/- p.m., The petitioners had claimed a compensation for a sum of Rs.25,00,000/-.

6. The Respondent / Transport Corporation has filed the counter *inter-alia* denying the contentions of the claimants/petitioners and submitted that the accident had occurred only on account of the negligence of the deceased Murugan and therefore, the Tribunal ought to have fastened the negligence upon the deceased.

7. The Tribunal on perusing the evidence, records and the arguments of the counsels held that the accident had occurred only on account of the negligent and rash driving on the part of the driver of the respondent/Transport Corporation's bus. The Tribunal had therefore adopted a notional income of Rs.10,000/- and added 10% towards future prospects and considering his age, adopted multiplier of 11 and deducted 1/4th from the said amount towards personal expenses. Ultimately, the Tribunal had proceeded to award a sum of Rs.13,74,218/- as compensation



C.M.A.Nos.1154 and 2199 of 2022

to the claimants, which is herein below set out.

S.No.	Description	Amount awarded by Tribunal
1	Loss of pecuniary benefits	Rs. 10,89,000/-/-
2	Loss of love and affection	Rs. 2,00,000/-
3	Loss of Estate	Rs. 15,000/-
4	Loss of Consortium	Rs. 40,000/-
5	Funeral Expenses	Rs. 15,000/-
6	Medical Expenses	Rs. 5,218/-
7	Transport Charges	Rs. 10,000/-
	TOTAL	Rs. 13,74,218/-

8. The Tribunal adopted a notional income at Rs.10,000/- only. The learned counsel for the petitioners would submit that the Tribunal ought to have admitted the income of Rs.15,000/- as stated by the claimants since it has not been disputed that the deceased was working with Hotel Aryas. Under the head of loss of Estate and loss of Consortium, Funeral Expenses and Transport charges no amount has been granted. In keeping in the letter and spirit of the judgment in the case of *National Insurance Company vs. Pranay sethi and others* reported in *2017 (2) TN MAC 609*, the learned counsel for the petitioners would seek to have the award enhanced.



C.M.A.Nos.1154 and 2199 of 2022

9. The learned counsel for the Transport Corporation would contend that the Tribunal below has adopted a very conservative and reasonable notional income which does not require to be enhanced. He would further submit that under the head of loss of love and affection to the petitioners 2 to 4, the Tribunal has awarded a sum of Rs.2,00,000/- when they are only entitled to a sum of Rs.1,32,000/- (Rs.44,000/- each). He would further submit that the amount granted under all other heads are also reasonable, therefore, he would seek to have the appeal filed by the claimants be dismissed. and his appeal insofar as it related to the compensation awarded under the head of love and affection be reduced.

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

11. The petitioners had contended that the deceased Murugan was working with Hotel Aryas at Puducherry, earning Rs.15,000/- p.m. The said statement had not been refuted by the Respondent/Transport Corporation. Therefore, it can be safely concluded that the deceased would have atleast earned a minimum of Rs.13,500/- p.m., of which, 10% has to be added



C.M.A.Nos.1154 and 2199 of 2022

towards future prospects. Therefore, the monthly income of the deceased would be a sum of Rs.14,850/- and the annual income would be Rs.1,78,200/-. Out of which, 1/4th has to be deducted towards personal expenses, therefore, the family income of the deceased would be Rs.1,33,650/-. The proper multiplier is 11. Therefore, the amount under the head of loss of pecuniary benefits is increased to Rs.14,70,150/-. The amount granted under the head of loss of love and affection is reduced to Rs.1,32,000/-. The amount under the head of loss of estate is increased to Rs.16,500/- and the loss of consortium is increased to Rs.44,000/- and Funeral Expenses is increased to Rs.16,500/-. The amount under the head of Medical Expenses and Transport Charges remains the same.

12. Therefore, the Compensation awarded by the Tribunal is reworked as below:

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Loss of pecuniary benefits	Rs.10,89,000/-	Rs.14,70,150/-	Enhanced



C.M.A.Nos.1154 and 2199 of 2022

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
2	Loss of love and affection	Rs. 2,00,000/-	Rs. 1,32,000/-	Reduced
3	Loss of Estate	Rs. 15,000/-	Rs. 16,500/-	Enhanced
4	Loss of Consortium	Rs. 40,000/-	Rs. 44,000/-	Enhanced
5	Funeral Expenses	Rs. 15,000/-	Rs. 16,500/-	Enhanced
6	Medical Expenses	Rs. 5,218/-	Rs. 5,218/-	Confirmed
7	Transport Charges	Rs. 10,000/-	Rs. 10,000/-	Confirmed
	TOTAL	Rs. 13,74,218/-	Rs.16,94,368/-	

13. In the result, the Civil Miscellaneous Appeal filed by the Transport Corporation in **C.M.A.No.2199 of 2022 is partly allowed** and the Civil Miscellaneous Appeal filed by the claimants in **C.M.A.No.1154 of 2022 is allowed** and the compensation of Rs.13,74,218/- awarded by the Tribunal is hereby Enhanced to a sum of **Rs.16,94,368/-**. Therefore, the respondent / Transport Corporation is directed to deposit the enhanced amount of **Rs.16,94,368/-** to the credit of M.C.O.P.No.4194 of 2018 on the file of the Motor Accident Claims Tribunal / Additional Sub Judge, (FAC), Cuddalore, together with interest @ 7.5% per annum from the date of claim



C.M.A.Nos.1154 and 2199 of 2022

petition till the date of deposit and costs, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, as apportioned by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. 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. No costs. Consequently, connected miscellaneous petition is closed.

15.11.2022

Index : Yes/No
Speaking / Non-speaking order
ssn



WEB COPY



C.M.A.Nos.1154 and 2199 of 2022

P.T.ASHA, J.,

ssn

To:

1. The Motor Accident Claims Tribunal,
Additional Sub Judge, (FAC),
Cuddalore.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

C.M.A.Nos.1154 and 2199 of 2022
and
C.M.P.No.17068 of 2022

15.11.2022