



C.M.A.No.818



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.04.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.818 of 2023

1.Vasanth
2.Manikandan
3.Thamaraiselvi
4.Murugasen

... Appellants

Vs.

M.T.C. Rep by M.D.
No.2, Pallavan Salai,
Chennai-2.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 praying to enhance the amount awarded in M.C.O.P.No.5512 of 2013 dated 09.08.2017, on the file of Motor Accident Claims Tribunal, (Chief Judge, Small Causes Court), Chennai.

For Appellants : Mr.K.Varadha kamaraj

For Respondent: Mr.M.Muralivinoth



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The appeal is filed by the claimants challenging the Award and Decree dated 09.08.2017, passed in M.C.O.P.No. 5512 of 2013, on the file of the Motor Accidents Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

2. The brief facts leading to the appeal are that, on 07.07.2013 at about 20.40 hours, when the deceased Palani, was proceeding in a bi-cycle on ECR road, near Sneha Garden, the respondent's bus bearing Regn. No. TN-01-N-5641 came from Thiruvanmiyur to Kelambakkam in high speed and in a rash and negligent manner and hit against the said Palani, causing him fatal injuries. The widow, daughter and the two sons of the deceased filed claim petition seeking compensation of Rs.10,00,000/- (Rupees Ten Lakhs only).

3. The respondent filed a detailed counter denying all the averments raised in the claim petition including negligence, liability and quantum.

4. Before the claims Tribunal, the first claimant examined herself as P.W.1, the eye-witness was examined as P.W.2. and Exs.P.1 to P.6 were filed on behalf of the claimants. The respondent examined R.W.1, the driver of the bus but no documents were marked.

5. The claims Tribunal, on an assessment of the entire evidence on record,

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awarded a sum of Rs.7,63,100/- as compensation along with 7.5% interest. Aggrieved by the quantum of compensation awarded by the claims Tribunal, the claimants have filed the above appeal for enhancement of compensation.

6. I have heard both the learned counsels and perused the materials available on record.

7. The learned counsel for the appellants questioned the assessment of the income by the tribunal at Rs.6,000/- per month, the award, towards loss of Parental consortium to the two sons and daughter of the deceased, the amounts awarded towards transport charges and loss of estate.

8. The learned counsel for the respondent, on the other hand, submitted that the Award of the Tribunal is just, fair and reasonable and did not call for any interference by this Court. The accident took place on 07.07.2013, the deceased was aged about 55 years and was working as Watchman at the time of accident. The Tribunal, in the absence of any evidence on record, assessed the monthly income of the deceased at Rs.6,000/-.

9. I am of the view that the income can be reasonably fixed at Rs.7,500/-

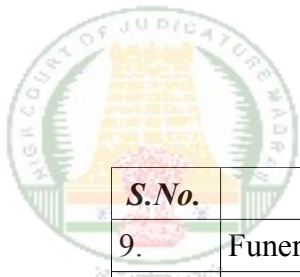


because it is fairly known that for such employment, there will not be any document to support the income. Therefore, I am of the view that Rs.7,500/- can be taken as income of the deceased.

10. The appellants 2, 3 and 4 are entitled to loss of love and affection at Rs.1,20,000/- (Rs.40,000x3). The first claimant is entitled to get loss of consortium at Rs.40,000/-. The appellants are further entitled to Rs.15,000/- towards loss of estate as laid down by the Hon'ble Supreme Court in the case of *National Insurance Ltd. Vs. Pranay Sethi* reported in 2017 (16) SCC 680.

11. In view of the above discussion, the award of the Tribunal is modified as follows:

S.No.	Various Heads	Award of the Tribunal	Award of this Court
1.	Income	Rs.6000/- per month	Rs.7,500/- per month
2.	15% of (1) added for future prospects	Rs.6000+ Rs.900= Rs.6,900/-	10% of (1) added for future prospects : Rs7,500 + Rs.750= Rs.8,250/-
3.	1/4th of (ii) deducted as personal expenses of the deceased	Rs.6,900 - 1725= Rs.5,175/-	Rs.8,250 - 2062.5 = Rs.6,187.5/-
4.	Compensation after multiplier of 11 is applied	Rs.5,175x12x11= Rs.6,83,100/-	Rs.6187.5x12x11= Rs.8,16,750/-
5.	Loss of Income	Rs.6,83,100/-	Rs.8,16,750/-
6.	Loss of Consortium to first petitioner	Rs.10,000/-	Rs.40,000/-
7.	Loss of love and affection to petitioners	Rs.40,000/-	Rs.1,20,000/- (Rs.40,000x3=1,20,000/-)
8.	Transportation charges	Rs.5,000/-	Rs.15,000/-



<i>S.No.</i>	<i>Various Heads</i>	<i>Award of the Tribunal</i>	<i>Award of this Court</i>
9.	Funeral Expenses	Rs.25,000/-	Rs.15,000/-
10.	Loss of Estate	Nil	Rs.15,000/-
	Total Compensation	Rs.7,63,100/-	Rs.10,21,750/- enhanced amount Rs.2,58,650/- rounded off to Rs.2,60,000/-

The claimants are entitled for enhanced compensation of Rs.2,58,650/- which is rounded off to Rs.2,60,000/-.

12. The learned counsel for the respondent submits that the entire amount awarded by the Tribunal was deposited.

13. The learned counsel for the appellants submits that the claimants had withdrawn the entire award amount deposited in the Tribunal. Therefore, there shall be a direction to the respondent to deposit the enhanced compensation of Rs.2,60,000/-, after deducting the amount already deposited.

14. The respondent is directed to deposit the enhanced amount of Rs.2,60,000/- along with 7.5% interest within a period of six (6) weeks from the date of receipt of a copy of this Judgment. It is made clear that the appellants are not entitled to interest for the delay period of 1475 days in preferring the appeal.



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The apportionment of compensation shall be as fixed by the Tribunal. The
appeal is accordingly partly allowed. There shall be no order as to costs.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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1. The learned Chief Judge, Small Causes Court,
Motor Accidents Claims Tribunal, Chennai.

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2. The Section Officer,
V.R. Section,
High Court, Madras.



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N.MALA.J.,

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