



C.M.A.No.713 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.09.2023

CORAM

THE HON'BLE MRS. JUSTICE R.KALAIMATHI

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1. Usharani
2. Kaviyarasu
3. Minor.Thatchayani
4. Minor. Sindhu
5. Minor.Abirami
6. Minor Abimanyu

Minors 3 to 6 are represented by their
next friend and mother the first petitioner Usharani ... Appellants

Vs.

The Managing Director,
rep.by the Tamil Nadu State
Transport Corporation Limited,
Villupuram Division-III,
Kanchipuram.

... Respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of M.V.Act 1988 against the award and decree dated 23.03.2005 made in M.C.O.P.No.51 of 2004 on the file of the Motor Accidents Claims Tribunal/Principal District Judge, Vellore.

For Appellants : Mr.M.Sathishkumar

For Respondent : Mr.S.S.Santhoshkumar

JUDGEMENT

This Civil Miscellaneous Appeal is focussed against the judgment and decree dated 23.03.2005 passed in M.C.O.P.No.51 of 2004 on the file of the Motor Accidents Claims Tribunal/Principal District Judge, Vellore. The Civil Miscellaneous Appeal is preferred by the claimants for enhancement of compensation.

2. The claim petition was filed by the legal heirs of the deceased Selvam, who died in the road accident that occurred on 13.01.2004, claiming compensation of Rs.15 Lakhs.



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3. The learned Tribunal after hearing both sides and upon consideration of the oral and documentary evidence has passed the award for a sum of Rs.4,41,500/- with interest at 6% per annum from the date of petition till the date of deposit.

4. Learned counsel appearing for the appellants/claimants would vehemently contend that the deceased was working in the Southern Railway-Electricity Department. As per Exs.P8 and P9, salary certificates, he was drawing a sum of Rs.9478/- (gross income). Though the Head Clerk of Railways was examined as P.W.4 in respect of the salary certificate of the deceased, the Tribunal has fixed the salary of the deceased at Rs.4,500/- is incorrect. No future prospects is calculated while computing the income. He further argued that the amounts awarded by the Tribunal, for funeral expenses and loss of consortium are less and the deduction adopted by the Tribunal is also incorrect, as the legal heirs are six in number and prayed for the enhancement of compensation.



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5. Per contra, the learned counsel appearing for the Transport Corporation strenuously argued that the Tribunal has taken the net income and fixed the notional income, which cannot be found fault with. Based on the oral and documentary evidence, the award passed by the Tribunal is a well reasoned order and needs no interference.

6. It is the evidence of P.W.1, wife of the deceased Tmt.Usha Rani that the deceased was working as Technician in the Electric Department in Southern Railways at the relevant point of time. The date of accident is 13.01.2004. Ex.P4 is the Identity Card. His Service Certificate is Ex.P5, wherein the date of birth of the deceased Selvam is mentioned as 09.03.1958. Therefore, at the time of death, the deceased was aged about 46 years. His Salary Certificates have been marked as Ex.P8 and Ex.P9. The Tribunal has fixed his monthly income as Rs.4,500/- based on his net salary. The salary details found in Ex.P9 is extracted hereunder:



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SALARY CERTIFICATE

Basic Pay: Rs.5625/-

DA : Rs.3431/-

HRA : Rs. 422/-

GROSS : Rs.9478/-

The abovesaid components of salary are beneficial both for the employee as well as for his family. Therefore, this Court deems it fit to fix the monthly income of the deceased as Rs.9478/-. As per the law laid down by the Hon'ble Supreme Court in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi reported in (2017) 2 TN MAC 609 (SC)**, adding of future prospects in respect of persons in permanent job and for other persons have been standardized by the Hon'ble Supreme Court. For the persons between 40 to 50 years of age, 30% to be added as future prospects. As regards the multiplier to be adopted, as per **Smt.Sarla Verma & Others Vs. Delhi Transport Corporation** reported in **2009 (2) TN MAC 1 (SC)**, is 13. As mentioned supra, the deceased died left behind his wife and five children. As per law laid down by the Apex Court in **Sarla Verma** case, if the number of dependants/family members is 4 to 6, then 1/4th to be deducted for personal and living



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expenses of the deceased.

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7. Based on the aforesaid observations, the loss of dependency is calculated as:

i. Age of the deceased : 46 years

ii. The relevant multiplier to be adopted : 13

iii. Future prospects to be added : 30%

iv. Income of the deceased : Rs.9478/-

After adding future prospects :

$$\text{Rs.}9,478 + (30\% \text{ of } 9478 = \text{Rs.}2,843) = \text{Rs.}12,321/-$$

Deduction of $1/4^{\text{th}}$ towards personal expenses of the deceased:

$$\text{Rs.}12321 - (12321 \times 1/4 = \text{Rs.}3080) = \text{Rs.}9241/-$$

$$\text{Rs.}9,241 \times 12 \times 13 = \text{Rs.}14,41,596/-$$

As per the law laid down by the Hon'ble Supreme Court in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi reported in (2017) 2 TN MAC 609 (SC)**, all the legal heirs are entitled for Rs.40,000/- each for loss of consortium and hence each legal heir is entitled for Rs.40,000/-. In all other aspects, the amount awarded by the Tribunal appears to be reasonable and needs no interference.



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The compensation is reworked and tabulated as follows:

<i>Sl. No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>	<i>Award confirmed or enhanced or granted</i>
1	For Loss of dependency	4,32,000	14,41,596	Enhanced
2	For Loss of Spousal Consortium	5,000	40,000	Enhanced
3	For Funeral expenses	2,000	-	-
4	For loss of filial consortium (for the appellants 2 to 6)		2,00,000 (5 x 40,000)	Granted
5	For Loss of love and affection & loss of estate &	2,500	-	-
	Total	4,41,500	16,81,596	
Rounded off to Rs.16,82,000/-				

Thus, the compensation awarded by the Tribunal is enhanced from **Rs.4,41,500 to Rs.16,82,000/-** which would carry interest at 7.5% from the date of filing of the petition till the date of deposit.



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8. In the result,

(i) The Civil Miscellaneous Appeal is **partly allowed**. There shall be no order as to costs;

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.4,41,500 to Rs.16,82,000/-** .

(iii) The respondent / Transport Corporation is directed to deposit the enhanced compensation amount i.e., **Rs.16,82,000/-** (less the amount already deposited if any) with interest at **7.5%** from the date of filing of the petition till the date of deposit, to the credit of M.C.O.P.No.51 of 2004 on the file of the Motor Accidents Claims Tribunal/Principal District Court, Vellore within a period of eight weeks from the date of receipt of a copy of this Judgment; and



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(iv) On such deposit being made, the appellants / claimants are at liberty to withdraw the same on filing of cheque petition, as per the ratio fixed by the Tribunal. It seems that the minor claimants already attained majority, they are also permitted to withdraw their share.

04.09.2023

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Vellore.
2. The Section Officer,
VR Section,
High Court, Madras.



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R.KALAIMATHI, J.

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