



C.M.A.Nos.2315, 2316 & 888 of 2016

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.Nos.2315, 2316 & 888 of 2016

C.M.A.No.2315 of 2016:

- 1.A.Nagalingam Konar (Died)
- 2.N.Sivanthiyammal
- 3.N.Gothandaraman
- 4.G.Bakkiyalakshmi
- 5.G.Meenachi
- 6.N.Nanthagopal

... Appellants

[Sole appellant died. Appellants 2 to 6 brought on record as LR's of the deceased sole appellant vide Court order dated 06.04.2023 made in C.M.P.Nos.1411, 1428 & 1597 of 2019 in C.M.A.No.2315 of 2016]

Vs.

Tamil Nadu State Transport
Corporation Ltd.,
Rep. by its Managing Director,
Kumbakonam.

... Respondent

Prayer in C.M.A.No.2315 of 2016: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 10.12.2014 made in



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MACT O.P.No.3597 of 2013 on the file of the IV Judge, Motor Accident Claim Tribunal, (Court of Small Causes), Chennai.

C.M.A.No.2316 of 2016:

N.Nandagopal

... Appellant

Vs.

Tamil Nadu State Transport
Corporation Ltd.,
Rep. by its Managing Director,
Kumbakonam.

... Respondent

Prayer in C.M.A.No.2316 of 2016: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 10.12.2014 made in MACT O.P.No.3598 of 2013 on the file of the IV Judge, Motor Accident Claim Tribunal, (Court of Small Causes), Chennai.

C.M.A.No.888 of 2016:

Tamil Nadu State Transport
Corporation Ltd.,
Rep. by its Managing director,
Kumbakonam.

... Appellant

Vs.

1.A.Nagalingam Konar (Died)
2.N.Sivanthiyammal
3.N.Gothandaraman
4.G.Bakkiyalakshmi



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5.G.Meenachi

6.N.Nanthagopal

... Respondents

[Sole appellant died. Appellants 2 to 6 brought on record as LR's of the deceased sole appellant vide Court order dated 06.04.2023 made in C.M.P.Nos.1599, 1601 & 1605 of 2019 in C.M.A.No.888 of 2016]

Prayer in C.M.A.No.888 of 2016: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 10.12.2014 made in MACT O.P.No.3597 of 2013 on the file of the IV Judge, Motor Accident Claim Tribunal, (Court of Small Causes), Chennai.

(In C.M.A.Nos.2315 & 2316 of 2016)

For Appellants : Mr.M.Swamikannu

For Respondent : Mr.D.Venkatachalam
Standing Counsel

(In C.M.A.No.888 of 2016)

For Appellant : Mr.D.Venkatachalam
Standing Counsel

For Respondents
For R2 to R6 : Mr.M.Swamikannu



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COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed against the award passed by the IV Judge, Motor Accidents Claims Tribunal (Court of Small Causes), Chennai, in M.C.O.P.Nos.3597, 3598 and 3597 of 2013 dated 10.12.2014.

2. C.M.A.Nos.2315 & 2316 of 2016 have been filed by the claim petitioners seeking enhancement of compensation awarded by the Tribunal and C.M.A.No.888 of 2016 has been filed by the Tamil Nadu State Transport Corporation, seeking dismissal of the award passed by the Tribunal.

3. The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the Respondent's vehicle are not in dispute in this Appeal. Accordingly, the finding rendered by the Tribunal in this regard are herein confirmed.



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4. Brief facts of the case:

On 31.01.2013 at about 13.00 hours, while the petitioner Nandagopal in M.C.O.P.No.3598 of 2013 was riding the motor cycle bearing Registration No.TDZ-3989 along with his father Nagalingam Konar, petitioner in M.C.O.P.No.3597 of 2013 as pillion rider in Thuvrankurchi – Senthurai main road from east to west direction on the left turn side of the road. While proceeding near Vannanparai Kuttu, the bus bearing Registration No. TN-21-N-1155 belonging to the Transport Corporation has come from opposite direction, in a rash and negligent manner and came to the extreme wrong side of the road and dashed against the petitioner's vehicle, due to which the petitioners sustained multifarious fractures. Hence, the claim petitioner in C.M.A.No.2315 of 2016 filed petition before the Tribunal claiming a sum of Rs.3,00,000/- and the claim petitioner in C.M.A.No.2316 of 2016 filed petition claiming Rs.24,00,000/- from the respondent corporation together with interests and costs for the injuries caused in the said road accident.



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5. Before the Tribunal, on behalf of the claimants P.W.1 to P.W.3 were examined and Exs.P1 to P10 were marked and on behalf of the respondent R.W.1 was examined and no document was marked.

6. On appreciation of materials before it, the Tribunal has awarded compensation as follows:

<i>Sl.Nos</i>	<i>Heads</i>	<i>Compensation</i>
1.	Disability	Rs.1,80,000/-
2.	Transport to Hospital	Rs.50,000/-
3.	Extra Nourishment	Rs1,00,000/-
4.	Pain and Suffering	Rs.1,00,000/-
5.	Damages to Cloths	Rs.3,000/-
6.	Medical Expenses	Rs.1,07,357/-
7.	Attender Charges	Rs.40,000/-
8.	Loss of income	Rs.90,000/- (7500x12)
9.	Loss of Amenities	Rs.40,000/-
Total		Rs.7,10,357/- / Rs.7,10,400/- (rounded off)

Accordingly, the Tribunal awarded a sum of Rs.7,10,400/- for the petitioner in M.C.O.P.No.3597 of 2013 and Rs.31,200/- for the petitioner in M.C.O.P.No.3598 of 2013 and the said sums are directed to be paid by the respondent along with interest at 7.5% per annum from the date of petition till



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the date of realization with costs.

7. Learned counsel for the appellants/claimants in both the appeals submitted that the Tribunal has wrongly considered the monthly income of the deceased at Rs.7,500 even though it is the categoric evidence that he earned around Rs.20,000/- per month and thus erred in awarding only a sum of Rs.90,000/- (Rs.7500x12) towards loss of income during the treatment period as against the claim of Rs.3,00,000/-. The Tribunal erred in awarding Rs.1,07,357/- towards medical expenses as against the claim of Rs.2,50,000/-. The Tribunal erred in awarding only a sum of Rs.40,000/- towards attender charges without taking into account that he was completely immobilized for more than a year for which a claim is made for a sum of Rs.1,00,000/-. The Tribunal has awarded Rs.40,000/- towards loss of amenities, Rs.1,00,000/- towards pain and suffering and Rs.1,80,000/- towards permanent disability as the claim made for Rs.2,50,000/-. In any event, the Tribunal has erred in awarding only a sum of Rs.7,10,400/- as against the claim of Rs.24,00,000/-. Hence, he prays for enhancement of compensation.



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8. The learned counsel for the respondent in both the appeals, on the other hand, submits that the order of the Tribunal is fair and justified and it does not require interference by this Court.

9. Heard the learned counsel appearing for the parties in all the appeals and perused the records.

10. The Tribunal has fixed Rs.7,500/- as notional income of the petitioner in M.C.O.P.No.3597 of 2013, since the petitioner is an agriculturist and also doing wholesale business in flowers and vegetables in Chennai and other major cities, and hence, this Court is inclined to enhance the notional income of the deceased to Rs.10,000/- (Rs.10,000x12=Rs.1,20,000). The compensation awarded by the Tribunal towards other heads appears to be just and proper and the same is hereby confirmed and it does not warrant any interference by this Court. Hence, I do not find any valid reason to interfere with the well considered award passed by the Tribunal. Insofar as, the compensation awarded in M.C.O.P.No.3598 of 2013 is concerned, the Tribunal awarded Rs.31,200/- for the injury sustained in the said accident, which appears



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to be just and proper and the same is hereby confirmed.

11. In the light of the above submission made by the learned counsel appearing for the appellant in C.M.A.No.2315 of 2016, this Court modifies the award of the Tribunal as follows:

<i>S.No.</i>	<i>Particulars</i>	<i>Award of Tribunal</i>	<i>Reduced amount</i>	
1.	Disability	Rs. 1,80,000/-	Rs. 1,80,000/-	Confirmed
2.	Transport to Hospital	Rs. 50,000/-	Rs. 50,000/-	Confirmed
3.	Extra Nourishment	Rs. 1,00,000/-	Rs. 1,00,000/-	Confirmed
4.	Pain and suffering	Rs. 1,00,000/-	Rs. 1,00,000/-	Confirmed
5.	Damages to cloths	Rs. 3,000/-	Rs. 3,000/-	Confirmed
6.	Medical Expenses	Rs. 1,07,357/-	Rs. 1,07,357/-	Confirmed
7.	Attender Charges	Rs. 40,000/-	Rs. 40,000/-	Confirmed
8.	Loss of income	Rs. 90,000/-	Rs. 1,20,000/-	Enhanced
9.	Loss of amenities	Rs. 40,000/-	Rs. 40,000/-	Confirmed
	Total	Rs.7,10,357/-	Rs. 7,40,357/-	

The said sum of Rs.7,40,357/- shall be deposited together with interest at the rate of 7.5% from the date of petition in M.C.O.P.No.2315 of 2016 till the date of realization.

12. In fine,



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C.M.A.No.2315 of 2016:

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(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.7,10,400/- to Rs.7,40,357/-, with 7.5 % interest per annum, to the extent indicated above. No Costs.

(ii) the respondent / Transport Corporation is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioners/Appellants are permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.



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C.M.A.No.2316 & 888 of 2016:

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In view of the fair and reasonable compensation enhanced in C.M.A.No.2315 of 2016, nothing survives in C.M.A.Nos.2316 & 888 of 2016 for further adjudication and hence, C.M.A.Nos.2316 & 888 of 2016 is dismissed. No costs.

08.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The IV Judge,
The Motor Accident Claim Tribunal, Court of Small Causes,
Chennai.

A.A.NAKKIRAN.J,



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