



C.M.A.No.303 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 26.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA
CMA.No. 303 of 2023

1.Nilavazhagi
2.Minor Narmadha
3.Minor Nandhini
4.Minor Kishore
5.Nagamuthu (Died)
6.Mayavathi
(Minor petitioners 2 to 4 Represented by
their Natural Guardian and mother Nilavazhagi)

...Appellants

Vs.

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Railway Station New Road,
Kumbakonam-612 001.

...Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.4129 of 2015 dated 13.10.2022 on the file of Motor Accident Claims Tribunal/ 1st Additional District & Sessions Judge, Cuddalore

For Appellants	: Mrs.Ramya V.Rao
For Respondent	: Mr.M. Muralivinodh



C.M.A.No.303 of 2023

WEB COPY

JUDGMENT

This appeal is filed challenging the Award and Decree passed in M.C.O.P.No.4129 of 2015, on the file of the Motor Accidents Claims Tribunal, Cuddalore.

2.The appeal is filed by the claimants seeking enhancement of compensation.

On 02.11.2015, while the deceased was riding his motor cycle from Chennai to Kumbakonam, the driver of the respondent bus drove the vehicle in a rash and negligent manner, dashed against the deceased, due to which, the deceased sustained fatal injuries and died on the spot.

3. According to the claimants, the accident occurred only due to the rash and negligent driving of the driver of the Transport Corporation bus. The deceased was 30 years of age at the time of accident and as a load man cum mason was earning Rs.25,000/- per month. The claimants who are the



C.M.A.No.303 of 2023

widow, minor children and parents of the deceased filed the claim petition claiming a sum of Rs.25,00,000/- as compensation.

4. The respondent/Transport Corporation filed a detailed counter affidavit denying all the averments made in the claim petition apart from disputing negligence and quantum of compensation.

5. Before the Claims Tribunal two witnesses were examined and Ex.P.1 to Ex.P.8 were marked in support of the claim. On the side of the respondent/ Transport Corporation no oral or documentary evidence was filed.

6. The Claims Tribunal on an assessment of entire evidence on record, rendered a finding of negligence against the driver of the respondent/Transport Corporation, assessed the compensation at Rs.21,90,800/- along with 7.5% interest and mulcted the liability on the respondent/Transport Corporation.



C.M.A.No.303 of 2023

7. Aggrieved by the award passed by the Claims Tribunal, the claimants have preferred the appeal for enhancement of compensation.

8. The learned counsel for the appellants submitted that considering that the deceased was aged 30 years at the time of the accident and maintaining a family of 6 members, the Tribunal's assessment of notional income of the deceased at Rs.9,000/- per month was on the lower side. The learned counsel submitted that the father of the deceased died pending O.P. The learned counsel fairly conceded that the award towards other heads was in conformity with the Judgment of the Hon'ble Supreme Court in the case of *National Insurance Co. Ltd. vs. Pranay Sethi* reported in 2017(2) TN MAC 609 (SC).

9. The learned counsel for the respondent on the other hand submitted that the award passed by the Claims Tribunal was just, fair and reasonable on the facts of the case and therefore did not call for any interference by this Court.



C.M.A.No.303 of 2023

10. I have heard both the learned counsels and have perused the materials placed on record.

11. The Claims Tribunal in the absence of evidence in support of the income of the deceased assessed the notional income at Rs.9,000/- per month. In my view, considering the large family of 6 members maintained by the deceased and the social economic situation in 2015, the notional income can be safely fixed at Rs.12,000/- per month.

12. As rightly conceded by the learned counsel for the claimants that the award under other heads is not challenged as it is in conformity with the Judgment of the Hon'ble Supreme Court in *Pranay sethi* case the same confirmed. The notional income is taken at Rs.12,000/- per month 40% is added towards future prospects and $1/4^{\text{th}}$ is deducted towards personal expenses of the deceased. The multiplier '17' appropriate to the age of the deceased at 30 years is adopted. The loss of income is arrived at Rs.25,70,400/- ($12,000 \times 40\% = 16,800 \times 12 \times 17 - 1/4 = 25,70,400/-$).



C.M.A.No.303 of 2023

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

S.No	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
1.	Loss of Income	19,27,800/-	25,70,400/-
2.	Loss of Spousal Consortium	44,000/-	44,000/-
3.	Loss of Parental Consortium	1,32,000/-	1,32,000/-
4.	Loss of Filial Consortium	44,000/-	44,000/-
5.	Funeral expenses and loss of estate	33,000/-	33,000/-
6.	Transport Charges	10,000/-	10,000/-
Total amount		21,90,800/-	28,33,400/-

14. In the result, the claimants are entitled to enhanced compensation of Rs.28,33,400/- along with 7.5% interest. It is submitted by the learned counsel for the appellants that the respondent/Transport Corporation has not deposited the award amount passed by the Claims Tribunal. Therefore a direction is issued to the respondent/Transport Corporation to deposit the enhanced compensation of Rs.28,33,400/- along with 7.5% interest from the date of claim petition till the date of deposit, within a period of twelve (12) weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimants are entitled to withdraw the amount in



C.M.A.No.303 of 2023

the ratio and as per the direction issued by the Claims Tribunal.

WEB COPY

15. It is further submitted by the learned counsel for the appellants that the appeal is restricted to Rs.5,00,000/-, therefore a direction is issued to the appellants to pay the deficit Court fee on the balance enhanced compensation. Registry is directed not to draft the decree till the deficit Court fee is paid.

In the result, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

26.06.2023

dsn

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation:Yes/No



C.M.A.No.303 of 2023

WEB COPY

To
The I Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Cuddalore.

Copy to
The Section Officer,
V.R.Section,
High Court, Madras.



WEB COPY



C.M.A.No.303 of 2023

N.MALA.,J.

dsn

C.M.A.No.303 of 2023

26.06.2023