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C.M.A No.368 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.368 of 2022

1.R.Poomalar
2.V.Rangasamy

... Appellants

Vs.

The Managing Director
Tamilnadu State Transport Corporation
(Villupuram Division -I)
No.3/137, Salamedu, Vazhuthareddy Post,
Villupuram-605 401.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Acct, 1988, seeking enhancement of compensation in MCOP.No.512 of 2019 on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Cuddalore.

For Appellants : Ms.Ramya V. Rao

For Respondent : Mr.S.S.Santhosakumar



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JUDGMENT

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The claimants herein are the parents of certain Jeeva who died in a road accident that took place on 27.02.2019 at around 1.30 p.m. when a bus bearing Regn.No.TN 32 N 3956 belonging to the respondent Corporation dashed against the motorcycle bearing Regn.No.TN 31 CA 5058, which he was riding at the relevant time. Jeeva was 17 years old at the relevant time and the Tribunal had reckoned 90% negligence on the driver of the bus and determined the compensation payable to the appellants at Rs.10,51,560/-. The break up of the award is as below:

Sl. No	Description	Amount awarded by Tribunal (Rs)
1.	Loss of dependency	10,58,400/-
2.	Loss of consortium	80,000/-
3.	Loss of Estate	15,000/-
4.	Funeral expenses	15,000/-
	Total	11,68,400/-
	10%(-)	10,51,560/-



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2.The major component of the award is the compensation payable under the head of loss of dependency. The Tribunal had fixed the notional income of the victim at Rs.7,000/-, to which it added another 40% towards his future prospects and applied 18 as the multiplier and reduced it by $\frac{1}{2}$, since the victim was a bachelor. Further, the Tribunal has also contributed 10% negligence to the victim of the accident. Aggrieved by the inadequacy of the compensation paid, the claimants are before this Court with this appeal.

3.The learned counsel for the appellants submitted that the victim was a student and his prospects of earning a better income could not be undervalued merely because he died before employable age.

4.Learned counsel for the respondent submitted that the victim was only a student, and hence the approach of the Tribunal in fixing the notional monthly income for the victim at Rs.7,000/- is just, fair and reasonable and does not warrant any interference by this Court.



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5. Rival submissions are considered and appreciated. Fixing the notional income cannot have a rational basis, but it must appeal to the conscience of the just thinking as just, fair and reasonable. Late A.P.J. Abdul Kalam sold newspapers when he was five, but that did not stop him from becoming the President of this Country. Sachin Tendulkar was born in a middle class or lower middle class family, but that did not stop him from becoming Sachin Tendulkar, and there can be any number of such cases. Therefore, to assess the value of a victim before their personality and potential have blossomed would be a gross injustice to the dignity of the very life that has been lost. This is not what the constitution intends which tries to equate every life in this Country.

6. This Court, given the circumstances, considers that Rs.10,000/- would be an appropriate notional income which may not only likely to meet the ends of justice but is also likely to grant a better dignity to the life that was lost. Therefore, Rs.10,000/- is fixed as the notional monthly income of the victim, to which another 40% is added towards future prospects, applying 18 as a multiplier and dividing it by half, with the other half set aside for the personal expenditure of the victim, amounting to



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Rs.15,12,000/-.The compensation awarded by the Tribunal under other heads are confirmed. The details are as below:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	Rs.10,58,400/-	Rs.15,12,000/-	enhanced
2.	Loss of consortium	Rs.80,000/- (Rs.40,000/- each)	Rs.80,000/-	confirmed
3.	Loss of Estate	Rs.15,000/-	Rs.15,000/-	confirmed
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	confirmed
	Grand Total	Rs.11,68,400/- (deducting10%) =Rs.10,51,560/-	Rs.14,70,800/- (deducting10 % =Rs.13,23,720/-	Enhanced by Rs.2,72,160/- -

7.The appeal is partly allowed and the compensation is enhanced from Rs.10,51,560/- to Rs.13,23,720/-. The respondent is now required the deposit the entire sum with interest at 7.5% per annum from the date of the claim petition till the date of deposit, less any amount already deposited, within the period of ten (10) weeks from the date of receipt of



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N.SESHASAYEE, J.

Anu

a copy of this judgment. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No Costs.

22.11.2023

Anu

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

Motor Accidents Claims Tribunal
/ Chief Judicial Magistrate, Cuddalore.

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