



WEB COPY



C.M.A. No.999 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2023

CORAM :

THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.No.999 of 2023

1.Wasee Munissa

2.Nisha Begum

3.Akram Khan

4.Mohammed Umar Khan (Minor)

rep.by mother and next friend and next
guardian Wasee Munissa

...

Appellants

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Illam,
Chennai – 600 002

...

Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.11.2019 in M.A.C.T.O.P. No.5881 of 2015 on the file of the Principal Special Judge, Special Court under E.C. and NDPS Act (Motor Accident Claims Tribunal) at Chennai.



WEB COPY



C.M.A. No.999 of 2023

For Appellants : Mr.K.Ayyadurai

For Respondent : Mr.M.Murali Vinodh

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants challenging the quantum of compensation awarded by the Tribunal in the order dated 20.11.2019 in M.A.C.T.O.P. No.5881 of 2015 on the file of the Principal Special Judge, Special Court under E.C. and NDPS Act (Motor Accident Claims Tribunal) at Chennai.

2. By consent of the learned counsel appearing for the appellant as well as Mr.M.Murali Vinoth, learned counsel, who takes notice for the respondent, the appeal is taken up for final disposal at the admission stage itself.

3. The appellants had filed the above said claim petition claiming a sum of Rs.40,00,000/- as compensation for the death of Mustafa Khan who died in the accident that took place on 09.07.2015.



C.M.A. No.999 of 2023

WEB COPY

4. The Tribunal, considering the oral and documentary evidence held that the accident occurred due to rash and negligent driving by driver of the bus belonging to the respondent and directed the respondent to pay a sum of Rs.15,78,000/- as compensation to the appellants. Aggrieved by the said award, the appellants have preferred the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellants submitted that though the appellants had established that the deceased was doing sand business and earning a sum of Rs.40,000/- per month, the Tribunal had fixed a very low notional income of Rs.9,000/- per month including future prospects; that the Tribunal had also not awarded any amount towards loss of filial consortium to the appellants 2 & 3 and parental consortium to the 4th appellant, in the manner determined by the Hon'ble Apex Court and prayed for allowing the appeal.



C.M.A. No.999 of 2023

WEB COPY

6. The learned counsel appearing for the respondent, per contra submitted that in the absence of any documentary evidence to prove the avocation and income of the deceased, the Tribunal rightly awarded compensation which is just and reasonable and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellants as well as the respondent and perused the materials available on record.

8. The only question involved in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

9. On a perusal of the records, it is seen that the accident took place in the year 2015. PW1, the wife of the deceased had deposed that the deceased was doing sand business but no document was produced to prove the avocation and income of the deceased. The deceased was survived by his



C.M.A. No.999 of 2023

wife, minor son and his parents. Considering the age, avocation, year of accident and the cost inflation index, this Court is the view that it would be just and reasonable to fix a sum of Rs.13,000/- per month as notional income of the deceased. The deceased was aged 25 years t the time of accident. And hence the appellants are entitled to 40% enhancement towards future prospects, the applicable multiplier is 18. Thus, the compensation towards loss of dependency is arrived as follows -

$$13000 + 5200 (13000 \times 40\%) \times 12 \times 18 \times 3/4 = \text{Rs.29,48,400/-}$$

The Tribunal has awarded a sum of Rs.20,000/- each to the appellants 2 & 3 towards loss of love & affection which is meagre. The appellants 2 & 3 who are the parents of the deceased are entitled to a sum of Rs.40,000/- each towards filial consortium. The amount of Rs.20,000/- awarded by the Tribunal towards loss of love & affection to the 4th appellant is meagre and the same is enhanced to Rs.40,000/- under the head parental consortium. The Tribunal has not awarded any amount towards loss of estate. The appellants are entitled to a sum of Rs.15,000/- under the said head. The amounts awarded by the Tribunal under other heads is reasonable and hence the same



C.M.A. No.999 of 2023

are confirmed.

WEB COPY

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	14,58,000/-	29,48,400/-	Enhanced
2.	Loss of Estate	-	15,000/-	Granted
3.	Loss of consortium to 1 st appellant	40,000/-	40,000/-	Confirmed
4.	Funeral expenses	20,000/-	20,000/-	Confirmed
5.	Loss of filial consortium to appellants 2 & 3	40,000/-	80,000/-	Enhanced
6.	Loss of parental consortium to 4 th appellant	20,000/-	40,000/-	Enhanced
	Total	15,78,000/-	31,43,400/-	Enhanced by Rs.15,65,400/-

10. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.15,78,000/- is hereby enhanced to Rs.31,43,400/- together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. Out of the award amount now determined by this Court, the 1st appellant is entitled to a sum of Rs.12,00,000/-, the appellants 2 & 3 are each entitled to a sum of Rs.5,00,000/- and the fourth



C.M.A. No.999 of 2023

appellant is entitled to a sum of Rs.9,43,400/-. The respondent is directed to deposit the award amount, now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellants 1 to 3 are permitted to withdraw their share of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. The share of the minor fourth appellant is directed to be deposited in any one of the Nationalised Bank, till he attains majority. The 1st appellant, mother of the 4th appellant is permitted to withdraw the accrued interest, once in three months. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

01.09.2023

rgr

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



WEB COPY



C.M.A. No.999 of 2023

SUNDER MOHAN, J.

rgr

To

1. The Principal Special Judge,
Special Court under E.C. and NDPS Act,
Motor Accident Claim Tribunal,
Chennai.

2. The Section Officer,
VR Section, High Court,
Madras.

C.M.A. No.999 of 2023

Dated: 01.09.2023