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CMA No. 2081 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 2081 of 2023

1. Radha

2. Minor Deepalakshmi

(Minor Deepalakshmi represented by her
guardian Ravi)

... Appellants

Versus

1. Managing Director,
Karnataka State Road Transport Corporation,
Bangalore Division, K.H.Road,
Shanthi Nagar,
Bangalore -560 027,
Karnataka State.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the Judgment and Decree dated
14.02.2020 made in M.C.O.P. No. 576 of 2017 on the file of the Motor
Accidents Claims Tribunal, Special Sub Judge, Thiruvannamalai.

For Appellants : Ms.Sunithi Abirami
for M/s.F.Terry Chella Raja

For Respondent : Mr. T.Thiyagarajan



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J U D G M E N T

The claimants have filed the instant appeal seeking enhancement of the compensation awarded by the tribunal.

2. The appellants have filed the claim petition stating that on 09.08.2016 at about 8.45pm, while the deceased was travelling in a two wheeler, the bus belonging to the respondent came in a rash and negligent manner from behind and dashed the vehicle of the deceased, as a result of which, the deceased sustained fatal injuries.

3. The respondent filed the counter denying the averments made in the claim petition and stated that the accident took place only due to the negligence of the deceased; that in any case, the compensation claimed by the appellants, was excessive and prayed for dismissal of the claim petition.

4. The appellants examined 3 witnesses on their side as PW1 to PW3 and marked Ex.P1 to Ex.P9. The respondent examined RW1, the



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Conductor of the bus and no document was marked.

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5. The tribunal after taking into consideration the oral and documentary evidence, awarded a total compensation of Rs.11,60,052/- to the appellants.

6. The learned counsel for the appellants submitted that though the avocation of the deceased was established through Ex.P7 and Ex.P8, the tribunal had taken a meagre notional income of Rs.8,000/- per month and therefore, prayed for enhancement of the compensation.

7. The learned counsel for the respondent *per contra* submitted that the award of the tribunal is just and reasonable as the appellants have neither established the avocation nor the income of the deceased and prayed for dismissal of the appeal.

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

9. The tribunal has taken up the notional income of Rs.8,000/- per



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month. The wife of the deceased/1st appellant had examined herself as PW1 and had deposed before the tribunal that her husband was working as an Agricultural coolie and also doing part-time real estate business. Considering the age of the deceased, his avocation, the number of dependents and the year of accident i.e., 2016, this Court is of the view that it would be just and reasonable to fix Rs.12,000/- as the monthly notional income of the deceased. Since the deceased was aged 49 years at the time of the accident, the appellants are entitled to 25% future prospects and the multiplier applicable is '13'. Therefore, the loss of income would be Rs.12,000/- + Rs. 3,000/- (25% of Rs.12,000/-) = Rs.15,000/- x 12 x 13 x 2/3 (1/3rd deducted towards personal expenses) i.e., Rs. 15,60,000/-.

10. The award under the other heads are just and the same are confirmed. Thus, the award of the Tribunal is modified as follows;

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	10,40,052	15,60,000	Enhanced
2.	Loss of spousal consortium	40,000	40,000	Confirmed
3.	Loss of love and affection to	50,000	50,000	Confirmed



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	2 nd appellant/minor daughter			
4.	Loss of estate	15,000	15,000	Confirmed
5.	Funeral expenses	15,000	15,000	Confirmed
	Total	11,60,052	16,80,000/-	Enhanced by Rs.5,19,948/-

11. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.11,60,052/- is hereby enhanced by Rs.5,19,948/- together with interest at 7.5% per annum (excluding the default period if any) from the date of petition till the date of deposit. 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 1st appellant is entitled to Rs.8,80,000/- and the 2nd appellant/minor is entitled to Rs.8,00,000/- . The 1st appellant is permitted to withdraw her share, along with proportionate interest and costs, less the amount if any, already withdrawn. The share of the minor 2nd appellant is directed to be deposited in the interest bearing fixed deposit in any of the Nationalized Banks till she attains majority and the 1st appellant is permitted to withdraw the accrued



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interest once in six months. The appellants are directed to pay the necessary court fee, if any, on the enhanced award amount. No costs.

19.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

SUNDER MOHAN, J.

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To

1. The Motor Accidents Claims Tribunal, Special Sub Court,
MCOP Tribunal, Thiruvannamalai.
2. The Section Officer,
VR Section,
Madras High Court,
Chennai – 600 104.

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