



WEB COPY



C.M.A.No.567 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No.567 of 2023

- 1.Raja Sekar
- 2.R.Vimala
- 3.Veeralakshmi
- 4.Usha
- 5.Indhra

...Appellants

Vs.

The Managing Director,
M.T.C., (Chennai Division)
Having its office at
Pallavan house,
Anna Salai,
Chennai- 600 002.

...Respondents

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.527 of 2016 dated 03.11.2019 on the file of Motor Accident Claims Tribunal, IV Additional District Judge, Ponneri.

For Appellants : Mr.F.Terry Chellaraja
for Mr.K.M.Ramesh

For Respondent: Mr.A. Vinothraj



C.M.A.No.567 of 2022

JUDGMENT

WEB COPY

The appeal is filed challenging the Award and Decree passed in M.C.O.P.No.527 of 2016 dated 03.11.2019 on the file of Motor Accident Claims Tribunal, IV Additional District Judge, Ponneri.

2. The appeal is filed by the claimant seeking enhancement of compensation. The accident, negligence and liability are not disputed. The only point in this appeal is as to whether the quantum of compensation is to be enhanced or not.

3. On 14.06.2016, while the deceased was trying to board the bus, the driver of the bus drove the same in a rash and negligent manner, due to which the deceased fell down from the steps of the bus and the back tyre ran over the deceased resulting in his instantaneous death. According to the claimants, the deceased was aged about 60 years at the time of the accident and was doing Tailor job and earning a sum of Rs.500/- per day.

4. As no documentary evidence was filed in support of the income of the deceased, the Claims Tribunal took the notional income at Rs.4,000/- per month and deducted 1/4th towards personal expenses of deceased and arrived at the



C.M.A.No.567 of 2022

income at Rs.3,000/- per month. The Claims Tribunal adopted the multiplier “7” and awarded Rs.2,52,000/- towards loss of dependency. The Tribunal, after adding the loss towards other heads, awarded total compensation of Rs.3,22,000/- along with 7.5% interest.

5. Not satisfied with the award of the Claims Tribunal, the claimants have filed the appeal.

6. The learned counsel for the appellants submits that the Claims Tribunal ought to have adopted the multiplier '9' and that Claims Tribunal failed to award any sum towards “loss of consortium” to the other claimants, who are the husband and daughters of the deceased. The learned counsel therefore submits that the appellants are entitled to Rs.1,60,000/- towards “loss of consortium”.

7. The learned counsel for the respondent on the other hand, submits that the Award of the Claims Tribunal is just, fair and reasonable and does not call for any interference in the appeal.



C.M.A.No.567 of 2022

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

9. I find justification in the contention of the learned counsel for the appellant. The adoption of multiplier “7” is inappropriate to the age of the deceased and therefore multiplier “9” is adopted and the loss towards dependency is arrived at Rs. 3,24,000/- (Rs.3,000/- x 12 x 9 = Rs. 3,24,000/-). The contention of the learned counsel regarding compensation towards loss of consortium to the daughters of the deceased is also justified and therefore, a sum of Rs.2,00,000/- (Rs.40,000/- each x 5) is awarded towards loss of consortium. The award towards loss of love and affection is set aside and other heads are confirmed.

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

<i>S.No</i>	<i>Various Heads</i>	<i>Award by Tribunal (amount in Rs.)</i>	<i>Award by this Court (amount in Rs.)</i>
1.	Loss of Dependency	2,52,000/-	3,24,000/-
2.	Loss of Estate	15,000/-	15,000/-
3.	Funeral Expenses	15,000/-	15,000/-
4.	Loss of love and affection	40,000/-	Nil
5.	Loss of consortium	Nil	2,00,000/-
Total		3,22,000/-	5,54,000/-

11. In the light of the above discussion, the claimants are entitled to



C.M.A.No.567 of 2022

enhanced compensation of Rs.5,54,000/- along with 7.5% interest.

WEB COPY

12. It is submitted by the learned counsel for the respondent that the award amount along with accrued interest and costs, was already deposited before the Claims Tribunal. There shall be a direction to the respondent to deposit the enhanced compensation of Rs.2,32,000/- along with 7.5% interest from the date of claim petition till the date of deposit within a period of eight (8) weeks from the date of receipt of copy of this order. The apportionment of shares shall be fixed, as per direction of the Claims Tribunal.

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

08.06.2023

dsn

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



C.M.A.No.567 of 2022

To

The IV Additional District Judge,
Motor Accident Claims Tribunal,
Ponneri

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



WEB COPY



C.M.A.No.567 of 2022

N.MALA.J.,

dsn

C.M.A.No.567 of 2022

08.06.2023