



CMA.No.1618 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.1618 of 2018

1. M.Saraswathi
2. Minor M.Oviya
3. Minor M.Dishya
4. Nagajothi
5. B.Baripadi (died)

Appellants

Vs

The Managing Director
Tamil Nadu State Transport Corporation Limited
Kanchipuram

Respondent

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 16.12.2017, made in MCOP.No.411 of 2014, by the II Additional District Court (MACT) Poonamallee.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.S.S.Santhoshkumar

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimants, against the judgement and decree, dated, 16.12.2017, made in MCOP.No.411 of 2014, by the II Additional District Court (MACT) Poonamallee.
2. The claimants, who are the wife, daughters, mother and father of the deceased, namely, M.Muthuselvan, have filed the claim petition before the Tribunal, seeking a compensation of Rs.20,00,000/- on various heads, for the death of the deceased, who died in a motor road accident, which took



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place on 23.05.2014. The claim petition was resisted, on various grounds, by the Respondent Transport Corporation, by filing a counter. On the side of the claimants, PW.1 and PW.2 were examined and Ex.P1 to Ex.P10 were marked. On the side of the Respondent Transport Corporation, RW.1 was examined.

3. Finding that the deceased died due to the injuries sustained by him in the alleged motor road accident due to the rash and negligent driving of the driver of the offending vehicle, belonging to the Respondent Transport Corporation, the Tribunal has awarded a total compensation of Rs.17,56,500/- with interest at 6% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income	1606500.00
2	Loss of Consortium	40000.00
3	Loss of Estate	15000.00
4	Funeral Expenses	15000.00
5	Loss of Love and Affection and Pain and Sufferings	80000.00
Total Compensation		1756500.00

Aggrieved by the quantum of compensation, this appeal has been filed by the claimants.

4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.



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6. According to the learned counsel for the Appellants, while arriving at the loss of dependency, the monthly income arrived at Rs.7,500/- by the Tribunal is on the lower side and hence, it needs to be enhanced. According to the learned counsel for the 2nd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.
7. The deceased was aged 34 years old at the time of the accident. Though it is claimed by the claimants that the deceased was earning a sum of Rs.30,000/- p.m. by running a provisional store, the Tribunal fixed the monthly income of the deceased at Rs.7,500/-, which is not proper. The deceased, by running a provisional store, would have earned not less than a sum of Rs.10,000/- p.m. Hence, the monthly income of the deceased could be fixed at Rs.10,000/-. If 40% towards future prospects is added, the monthly income would come to Rs.14,000/-. Since the deceased was aged 34 years old at the time of the accident, 16 is the proper multiplier. Then after deducting $\frac{1}{4}^{\text{th}}$ towards his personal expense, the loss of monthly dependency would come to Rs.10,500/-. Thus, the total loss of dependency would come to Rs.20,16,000/- (Rs.10,500 x 12x16). The compensation awarded under the other heads are retained. In all, the claimants are entitled to a total compensation of Rs.21,66,000/- with interest at 7.5% p.a. from the date of the petition till the date of realisation.
8. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimants are entitled to a total compensation of Rs.21,66,000/- (Rupees twenty one lakhs seventy six lakhs only) with interest 7.5% p.a. from the



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date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Dependency	2016000.00
2	Loss of Consortium	40000.00
3	Loss of Love and Affection	80000.00
4	Loss of Estate	15000.00
5	Funeral Expenses	15000.00
Total Compensation		2166000.00

The 2nd Respondent Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. Out of the total compensation, the claimants 1 to 4 are entitled to Rs.10,00,000/- Rs.4,50,000/- Rs.4,50,000 and Rs.2,66,000/- respectively. The 1st claimant and 4th claimant are permitted to withdraw their respective shares with proportionate interest, by filing proper application and by paying proper court fee for the enhanced amount. The share of the minor claimants 2 and 3 shall be deposited in any one of the Nationalised Banks, till they attain majority. No costs.

12.04.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The Principal District Court (MACT) Krishnagiri
2. The Record Keeper, VR Section, High Court, Madras



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A.A.NAKKIRAN, J.

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