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C.M.A.No.1550 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.1550 of 2023

1.Madhu
2.Madhammal
3.Sanjeevan

... Appellants

Vs

The Managing Director,
Tamil Nadu State Transport Corporation Salem Limited,
No.12, Ramakrishna Road,
Salem.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation amount made in judgment and decree dated 17.12.2020 in M.C.O.P.No.1185 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Judge, Krishnagiri.

For Appellants : Mr.S.P.Yuaraj

For Respondent : Mr.D.Nitin



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J U D G M E N T

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This Civil Miscellaneous Appeal has been filed by the appellant challenging the quantum of compensation granted by the Tribunal in the award dated 17.12.2020, made in M.C.O.P. No.1185 of 2019 on the file of the Motor Accident Claims Tribunal Special District Judge, Krishnagiri.

2. The appellants filed M.C.O.P. No.1185 of 2019 on the file of the Motor Accident Claims Tribunal Special District Judge, Krishnagiri claiming a sum of Rs.30,00,000/- as compensation for the death of one Venkatesan, who died in the accident that took place on 03.04.2016.

3. According to the appellants, on 03.04.2016 at about 12.10 hours, while the deceased Venkatesan was standing in bus stop on the left side of the road, at Basavanan Kovil in Krishnagiri to Sinthagampalli road, the driver of the TNSTC Town Bus bearing Registration No. TN-29-N-1726 belonging to the respondent, drove the same in a rash and negligent manner from Krishnagiri side towards Chinthagampalli, dashed the deceased and ran over him resulting in his death.



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4. The respondent filed counter statement denying all the averments made by the appellants in the claim petition. The respondent had stated that when the bus was moving slowly from the Basavannakoil bus stop, the deceased crossed the road suddenly from right side to left side in front of the moving bus, due to which, the left side corner of the bus hit against the deceased, due to which he succumbed to injuries; that the accident occurred only due to the negligent act of the deceased; that the respondent is not liable to pay compensation to the appellants; and that the total compensation claimed by the appellants is excessive and prayed for dismissal of the claim petition.

5. The 2nd appellant examined herself as PW1 and one Rajendiran, eye-witness to the accident was examined as PW2. Nine documents were marked as Ex.P.1 to Ex.P.9. The driver of the bus was examined as R.W.1 but no document was marked on the side of the respondent.



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6. The Tribunal after considering the evidence and documents filed on the side of the appellants, held that the accident occurred due to rash and negligent driving by the driver of the bus and directed the respondent to pay a sum of Rs.13,20,000/- as compensation to the appellants.

7. Aggrieved by the said order, the appellants have preferred the present appeal seeking enhancement of compensation.

8. The learned counsel for the appellant submitted that the Tribunal had fixed a very meagre notional income for the deceased for the accident which took place in the year 2016; that in similar circumstances, this Court had fixed higher notional income, as the daily wages of coolie had substantially increased; and that the Tribunal had not awarded any compensation towards transport charges and prayed for allowing the appeal.

9. The learned counsel for the respondent per contra submitted that the appellants have not produced any proof for the income of the



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deceased; that in such circumstances, the notional income fixed by the Tribunal is just and reasonable; and prayed for dismissal of the appeal.

10. The only question involved in the instant appeal is-

Whether the compensation awarded by the Tribunal is just and reasonable?

11. On perusal of the records, it is seen that the appellants have established through the evidence of P.W.1 that the deceased was working as a Coolie in a brick kiln. Considering the age of the deceased, his avocation and the cost inflation index, this Court is of the view that it would be reasonable to fix the notional monthly income as Rs.12,000/-. As per postmortem certificate, the deceased was 50 years. Hence, the multiplier applicable is '13' and the appellants are entitled to 25% towards future prospects. Hence, the loss of dependency is calculated as follows:-
$$\text{Rs.12,000/-} + 3,000(12,000 \times 25\%) \times 12 \times 13 \times 2/3 = \text{Rs.15,60,000/-}.$$



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12. The compensation awarded by the Tribunal under other heads

are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is enhanced from Rs.13,20,000/- to Rs.17,10,000/-, break-up as follows -

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	11,70,000/-	15,60,000/-	Enhanced
2.	Loss of estate	15,000/-	15,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of consortium	1,20,000/-	1,20,000/-	Confirmed
	Total	13,20,000/-	17,10,000/-	Enhanced by Rs.3,90,000/-

13. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.13,20,000/- is hereby enhanced to Rs.17,10,000/- together with interest at 7.5% per annum from the date of petition till the date of deposit. It is made clear that the appellants are not entitled for any interest for the delay period on the amount of Rs.3,90,000/- enhanced by this Court as per the order of this Court dated 30.06.2023 made in C.M.P.No.7132 of 2023 in



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C.M.A.SR.No.40460 of 2023. 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 are permitted to withdraw their share of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn, on the basis of apportionment fixed by the Tribunal. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

01.08.2023

Index: Yes/No
Neutral Citation: Yes/No
AT

To
1.The Motor Accident Claims Tribunal,
Special District Judge, Krishnagiri.

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



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SUNDER MOHAN, J.

AT

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