



C.M.A.No. 1087 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No. 1087 of 2022

1. Saraladevi
2. Minor Dineshkumar
3. Minor Surya
4. Minor Kiruthika

[Petitioners 2 to 4 represented by their
Natural Guardian and Mother]

... Appellants

Versus

The Managing Director
Tamil Nadu State Transport Corporation Limited
Tiruvannamalai.

... Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 28.10.2021 made in MCOP.No. 2683 of 2015 on the file of the Motor Vehicle Accident Claims Tribunal, Principal Disttict Judge, Cuddalore.

For Appellants : Ms.Ramya v. Rao

For Respondent : Mr.S.S. Santhosha Kumar



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JUDGMENT

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This Civil Miscellaneous Appeal is filed by the claimants against the award and decree dated 28.10.2021 made in M.C.O.P.No. 2683 of 2015 on the file of the Motor Vehicle Accident Claims Tribunal, Principal District Judge, Cuddalore.

2. The claimants have filed the above appeal seeking for enhancement of compensation.

3. According to the claimants, when the deceased was travelling in the respondent/Transport Corporation bus bearing Registration No. TN-25-N-0298, the driver of the bus drove the bus in a rash and negligent manner, due to which, the deceased fell down from the seat and sustained fatal injuries. According to the claimants, the deceased was aged about 45 years at the time of accident and he was doing carpentry work and earning a sum of Rs.25,000/- per month. Therefore, the claimants have filed the claim petition claiming a sum of Rs.25,00,000/- as compensation.

4. The respondent/Transport Corporation contested the claim



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petition by filing detailed counter affidavit denying the negligence, liability and quantum of compensation.

5. Before the Claims Tribunal, the 1st claimant examined herself as PW1 and one other witness was examined as PW2. On the side of the claimants, Ex.P1 to Ex.P5 were marked. On the side of the respondent, neither any oral nor documentary evidence was adduced.

6. The Claims Tribunal, on an assessment of the entire evidence on record, awarded a sum of Rs.12,13,000/- as compensation along with 8% interest. Aggrieved by the quantum of compensation awarded by the Claims Tribunal, the claimants have filed the above appeal for enhancement of compensation.

7. The learned counsel for the appellants submitted that the notional income assessed by the Tribunal was very much on the lower side. The learned counsel submitted that considering that the year of accident, the age of the deceased and his avocation, the Tribunal ought to have assessed the income at Rs.25,000/- per month as claimed. The



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learned counsel further submitted that the Tribunal failed to award any amount towards "loss of consortium" to the minor claimants 2 to 4, the children of the deceased.

8. The learned counsel for the respondent, on the other hand, submitted that the award of the Tribunal was just, fair and reasonable and did not call for any interference.

9. I have heard both the learned counsels and perused the materials available on record.

10. I find justification in the contention of the learned counsel for the appellants that the notional income assessed by the Tribunal was very much on the lower side. Considering the age of the deceased, his avocation and the cost escalation for the year 2014, the notional income is fixed at Rs.11,000/- per month. In view of the said discussion, the Award of the Tribunal is modified as under:-



S.No.	Various Heads	Award of the Tribunal	Award of this Court
1.	Pecuniary Loss [Rs.11,000 + FP 25% = (Rs.13750 x 12 x 14 - 1/4 = Rs.23,10,000-1-4]	Rs.11,02,500	Rs.17,32,500
2.	Loss of Consortium (wife)	Rs.40,000	Rs.40,000
3.	Loss of Consortium (parental)	---	Rs.1,20,000
4.	Funeral Expenses	Rs.15,000	Rs.15,000
5.	Loss of Estate	Rs.15,000	Rs.15,000
Total		Rs.11,72,500	Rs.19,22,500

11. 25% of the income is added towards “future prospects” and 1/4 of the income is deducted towards personal expenses. The multiplier 14 is adopted and the loss towards loss of earning is assessed at Rs.17,32,500/-. The Tribunal did not award any sum to the minor claimants towards loss of consortium. Hence, Rs.80,000/- at Rs.40,000/- each to claimants 2 to 4 awarded towards loss of consortium”.

12. It is submitted by the learned counsel for the claimant that the respondent/Transport Corporation has not deposited the compensation awarded by the Tribunal. Therefore, a direction is issued to the respondent/Transport Corporation to deposit the enhanced compensation



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of Rs.19,22,500/- @ 7.5% interest within a period of 12 weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first claimant/wife is entitled to withdraw her share as per the ratio fixed by the Tribunal along with accrued interest. The share of the minor claimants 2 to 4 shall be deposited in cumulative fixed deposit in any of the Nationalized Bank till they attain majority.

13. Accordingly, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

08.06.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

msm

To

1.Principal Disttict Judge,
Motor Vehicle Accident Claims Tribunal, Cuddalore.

2.The Section Officer,
V.R.Section, High Court, Madras.



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N.MALA.J.,

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