



CMA No. 2082 / 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 2082 of 2022

Ganesh

... Appellant

Versus

The Director,
Tamil Nadu State Transport Corporation,
Kumbakonam,
Tanjavur District.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P. No. 42 of 2019 dated 23.10.2021 on the file of the Motor Accidents Claims Tribunal (Principal District and Sessions Court), Ariyalur.

For Appellant : Mr. P. Parthikannan.

For Respondent : Mr. C. Gauthama Raj.

J U D G M E N T

The claimant has preferred the instant appeal seeking enhancement of compensation in the award passed by the Tribunal in M.C.O.P. No. 42 of 2019 dated 23.10.2021.



CMA No. 2082 / 2022

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2.The claimant/appellant has filed the claim petition stating that on 14.09.2017, the deceased boarded the bus and before she could get seated, the driver of the bus applied sudden brake as a result of which the deceased fell down from the bus and sustained fatal injuries.

3.The respondent filed a counter stating that the accident took place only due to the negligence of the deceased; and that in any case, the compensation claimed was excessive and prayed for dismissal of the appeal.

4.The appellant examined PW1 and PW2 and marked Ex.P.1 to Ex.P.4. The respondent examined RW1 and did not mark any document.

5.The Tribunal after taking into consideration the oral and documentary evidence held that the accident took place due to the rash and negligent driving of the driver of the bus belonging to the respondent and directed the respondent to pay a compensation of Rs.7,61,328/- to the appellant.



CMA No. 2082 / 2022

6.The learned counsel for the appellant submitted that the Tribunal had fixed a very low notional income for the deceased; and that the Tribunal had erroneously deducted 1/2 towards personal expenses instead of 1/3 and prayed for enhancement.

7.The learned counsel for the respondent, per contra, submitted that the compensation awarded by the Tribunal is just and reasonable and no interference is called for.

8.The only question that arises for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

9.On perusal of the records, it is seen that the appellant examined himself as PW1. He has deposed before the Tribunal that the deceased was doing milk vending business. The deceased was aged 50 years at the time of the accident. This Court is of the view that in the circumstances of the case, considering the age, avocation and the year of the accident, it would be just and reasonable to fix Rs.9,000/- per month as notional income. Since the deceased was aged 50 years at the time of the



CMA No. 2082 / 2022

accident, the appellant is entitled to 25% enhancement towards future prospects and the multiplier applicable is 13. This Court is of the view that since the deceased was survived by the appellant who is the unmarried son, the personal expenses of the deceased has to be taken as 1/3 of the income. Thus, the compensation under the head Loss of income would be Rs.9,000 + Rs.2,250 (25% of 9,000) = Rs.11,250/- X 12 X 13 X 2/3 = Rs.11,70,000/-. Further, the compensation awarded under the head loss of love and affection is meagre and the same is enhanced to Rs.40,000/-. It is also seen that no compensation has been awarded under the head loss of estate. Hence, Rs.15,000/- is awarded under the said head. The compensation under the head Funeral Expenses is 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	7,31,328	11,70,000	Enhanced
2.	Loss of Love and Affection	15,000	40,000	Enhanced
3.	Loss of Estate	---	15,000	Granted
4.	Funeral Expenses	15,000	15,000	Confirmed
	Total	7,61,328	12,40,000	Enhanced by Rs.4,78,672/-



CMA No. 2082 / 2022

12. With the above modification, this Civil Miscellaneous Appeal

is partly allowed and the compensation awarded by the Tribunal at Rs.7,61,328/- is hereby enhanced to Rs.12,40,000/- 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 proportionate interest and costs, less the amount already deposited, if any, within a period of twelve (12) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellant is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the necessary Court fee if any on the enhanced award amount. No costs.

26.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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CMA No. 2082 / 2022

SUNDER MOHAN, J

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To

1. The Motor Accidents Claims Tribunal
(Principal District and Sessions Court),
Ariyalur.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai.

C.M.A. No. 2082 of 2022

Dated: 26.09.2023