



C.M.A.No.857 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A.No.857 of 2018

Baby

..Appellant

Vs.

1.Metropolitan Transport Corporation

Rep by its Managing Director,
Pallavan Salai, Chennai – 2.

2. Alamelu

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the order dated 21.09.2017 made in M.C.O.P.No.4724 of 2013 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellant : Mr.S.Udhayakumar

For Respondents : Mr.R.Sivakumar

JUDGMENT

With the consent of both sides, this Appeal is taken up for final disposal at the admission stage itself.

2. This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 21.09.2017 passed in M.C.O.P.No.4724 of 2013 on the file of the Motor Accidents Claims



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Tribunal, Chief Judge, Small Causes Court, Chennai.

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3.The case in brief, is as follows:

On 19.07.2013, at about 01.45 p.m., while the deceased was travelling in a Bus Route No.159-B bearing Regn.No.TN-01-N-9792 and when the bus nearing Aminjikarai EVR.Salai, Varasakthi Koil from East to West direction junction, the first respondent's bus driver suddenly applied brake and as a result, the deceased standing near the front entrance, fallen in the road and bus back wheel crushed his leg. Due to the said impact, the deceased sustained fatal grievous injuries and thereafter he died. Hence the first respondent as a owner of the bus is liable to pay compensation to the claimant. The claimant/appellant is the wife of the deceased who filed a claim petition before the Tribunal, claiming a sum of Rs.8,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.3,82,834/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

4. Challenging the same, the appellant/claimant has filed the present



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Civil Miscellaneous Appeal.

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5. The learned counsel for the appellant/claimant has submitted that the Tribunal has failed to consider the evidences and the documents properly while awarding the quantum of compensation. He further submitted that the monthly income taken by the Tribunal is very low and it has not given any amount for future prospects of the deceased. It ought to have adopted proper multiplier while fixing the quantum of compensation. It failed to consider that the age of the deceased is only 42 years. It has not given sufficient amount for compensation and for loss of love and affection and consortium. It is further submitted that in the absence of proof of income, the Tribunal erred in fixing Rs.5,60,000/- per annum of the deceased. It has not properly considered the evidences and the documents marked in granting awards under various heads. Hence, he prays for enhancement of the appeal.

6.The learned counsel for the first respondent has submitted that the Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and the same does not require any interference at the hands of this Court. Hence, he



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prays for dismissal of the appeal.

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7. Heard the learned counsel for the appellant and the learned counsel for the first respondent and perused the materials available on record carefully and meticulously.

8. Before the Tribunal, two witnesses have been examined and marked as PW1 and PW2 and filed seven documents which were marked as Ex.P1 to Ex.P7. On the side of the Insurance Company, one witness was examined as RW1 and two documents were marked as Ex.R1 to Ex.R2.

9. This is a claimant's appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, this Court is not inclined to go into the findings of the Tribunal in respect of negligence as well as the liability of the respondents to pay compensation.

10. The details of the compensation awarded by the Tribunal are as follows:

HEADS	AMOUNT (in Rs.)
Annual Income (5,60,000/- -1,86,666)	



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1/3 of (i) deducted as personal
expenses of the deceased Rs.3,73,334/-

Loss of Consortium 5,000/-

Loss of Estate 2,500/-

Funeral Expenses 2,000/-

TOTAL 3,82,834/-

11. The Tribunal has awarded a sum of Rs.5,60,000/- towards annual income of the deceased, deducting 1/3rd of the amount towards personal expenses of the deceased, it has arrived at Rs.3,73,334/-. The Tribunal has taken the age of the deceased as 42 years. Further, taking note of the earning capacity of the deceased and the economic situation prevailing at that time, the Tribunal fixed the monthly income of the deceased at Rs.5,60,000/- towards annual income of the deceased for calculating the pecuniary loss on account of the death of the deceased.

12. It is seen that the deceased was the entire caretaker of the family. Taking note of the above submissions of the learned counsel for the appellant / claimant, economic situation prevailing at that time and also the facts and circumstances of the case, this Court is of the considered view that



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the consortium to wife has to be enhanced to Rs.40,000/- instead of Rs.5000/- fixed by the Tribunal. Similarly, it would be appropriate to enhance Rs.15,000/- towards funeral expenses instead of Rs.2000/-. There is no need to change the annual income of the deceased since the Tribunal has properly considered the evidences and documents in respect of calculation of the same. Further, the deduction at 1/3 towards personal expenses is also rightly assessed by the Tribunal. If Rs.5,60,000/- is taken as the monthly income of the deceased, after 1/3rd (Rs.1,86,666/-) of the amount is deducted, the amount arrived is Rs.3,73,334/-. The Tribunal is also right in calculating Rs.2500/- under the head of loss of Estate. Therefore, no interference of this court is required under these heads.

13.The details of the modified compensation are as under:

HEADS	AMOUNT (Rs.)
Annual income	3,73,334/-
Loss of Consortium	40,000/-
Loss of Estate	2,500/-
Funeral Expenses	15,000/-

TOTAL...	4,30,834/-

14. In the result, the Civil Miscellaneous Appeal filed by the appellant/claimant is partly allowed by enhancing the total compensation



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from Rs.3,82,834/- to **Rs.4,30,834/-**, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

15. The first respondent/Transport Corporation shall deposit the enhanced compensation amount, as awarded by this Court, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest as per the order of this Court to the appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

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Index : Yes/No
Internet : Yes/No
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A.A.NAKKIRAN.,J.
gv

To

- 1.The Motor Accidents Claims Tribunal
Chief Judge, Small Causes Court, Chennai.
- 2.The Section Officer,
VR Section,
Madras High Court.

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