



C.M.A.No.1279 of 2022

JUDGMENT

WEB COPY This appeal is filed against the award in M.C.O.P.No. 2023 of 2019 dated 21.12.2021 on the file of the Motor Accidents Claims Tribunal, 1st Additional District & Sessions Judge, Cuddalore.

2. The appeal is filed by the claimants seeking enhancement of compensation for the death of the wife of first claimant and the mother of the claimants 2 to 6, in a motor accident which occurred on 22.04.2019. On 22.04.2019, while the deceased was walking with her TVS XL 100 Moped Regn.No.PY-05-F-8854, the bus belonging to respondent/Transport Corporation driven by its driver in a rash and negligent manner dashed against the deceased and ran over her, due to which the deceased sustained fatal injuries and died on the spot.

3. According to the claimants, the deceased was aged about 28 years at the time of the accident and was a Potter and Toy maker and earning a sum of Rs.15,000/-per month. The claimants therefore filed claim petition claiming Rs.35,00,000/- as compensation.

4. The respondent/Corporation contested the claim petition by



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filing a counter, denying all the averments and allegations made in the claim petition, apart from disputing the negligence, liability and quantum.

5. Before the Claims Tribunal, the first claimant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.6 in support of the claim. On the side of the respondent, neither any document was marked nor any oral evidence was let in.

6. The Claims Tribunal on an assessment of entire evidence on record rendered a finding of negligence against the driver of Transport Corporation. The Tribunal assessed the compensation at Rs.18,19,100/- along with 7.5% interest and mulcted the liability on the Transport Corporation. Not satisfied with the award passed by the Claims Tribunal, the claimants have filed the above appeal.

7. The learned counsel for the appellants submitted that considering the age and avocation of the deceased the assessment of income of the deceased at Rs.7,500/- per month by the Claims Tribunal



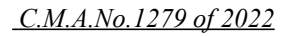
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was very much on the lower side. The learned counsel further submitted that the award towards loss of love and affection is erroneous and against the Judgment of the Hon'ble Supreme Court in the case of *National Insurance Co. Ltd vs. Pranay Sethi* reported in 2017(2) TNMAC 609 (SC). The learned counsel therefore submitted that the award passed by the Tribunal deserved to be enhanced.

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

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

10. It is seen that the deceased was aged 28 years at the time of the accident and was a mother of 5 children viz., the claimants 2 to 6. According to the claimants, apart from being house wife, she was also Potter and toy maker and earning Rs.15,000/- per month. No doubt, there is no proof in support of the income of the deceased but



11. The accident took place in the year 2019 and therefore considering the cost index for the year 2019 and the priceless loss caused to the minor claimants by the death of their mother, I am of the view that the monthly income of the deceased can be assessed at Rs.12,000/- per month. 40% of the income is added towards future prospects i.e Rs.4,800/-. Therefore the total monthly income is arrived at Rs.16,800/- and after adopting multiplier "17" and deducting 1/5th towards contribution to the family, the loss of income is arrived at Rs.27,41,760/- (16,800x12x17 = 34,27,200/-, Rs.6,85,440/- (1/5th deduction). The first claimant would be entitled to get Rs.44,000/- towards loss of consortium. The claimants 2 to 6 would be entitled to get Rs.44,000/- each towards loss of love and affection. The Claims Tribunal awarded Rs.15,000/- towards Transport charges, the same is adjusted towards



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loss of estate at Rs.16,500/-. The award under funeral expenses is confirmed.

12. In the light of the said discussion, the award of the Claims Tribunal is modified as follows.

S.No	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
1.	Loss of Income	17,13,600/-	27,41,760/-
2.	Loss of consortium	44,000/-	44,000/-
3.	Loss of love and affection	30,000/- (5,000x6)	2,20,000/- (44,000x 5)
4.	Transport expenses	15,000/-	Nil
5.	Loss of Estate	Nil	16,500/-
6.	Funeral expenses	16,500/-	16,500/-
	Total Compensation	18,19,100/-	30,38,760/-

13. It is submitted by the learned counsel for the appellants, that the respondent has not yet deposited the award amount. In view of the said submission, a direction is issued to the Transport Corporation to deposit the entire compensation amount along with 7.5% interest from the date of claim petition till the date of deposit, less, the amount, if any, already deposited within a period of twelve (12) weeks from the date of receipt of a copy of this Judgment.

14. It is submitted by the learned counsel for the appellants that



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the deficit Court fee is payable on the enhanced compensation. The claimants are therefore permitted to pay the deficit Court fee and the Registry is directed not to draft the decree till the deficit Court fee is paid.

15. The apportionment of compensation awarded by the Tribunal at Rs.18,19,100/- shall be as per the direction of the Claims Tribunal. The enhanced compensation of Rs.12,19,660/- shall be shared equally by the minors and kept in cumulative fixed deposit in any of the nationalised banks in the name of the minor claimants 2 to 6 till they attain majority.

In the result, this Civil Miscellaneous Appeal is partly allowed.
There shall be no order as to costs.

20.06.2022

dsn

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



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To

The 1st Additional District & Sessions Judge,
Motor Accident Claims Tribunal,
Cuddalore.

copy to
The Section Officer,
V.R.Section,
High Court, Madras.



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N.MALA.J.

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