



WEB COPY



C.M.A.No.1918 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.06.2023

PRONOUNCED ON: 21.07.2023

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.M.A.No.1918 of 2021

1. Subhurayan
2. Amsayal

... Appellants

- Vs -

The Managing Director,
Tamil Nadu State Transport
Corporation (Villupuram - Division I) Ltd.,
No.3/137, Salamedu, Vazhuthareddy Post,
Villupuram - 605 602.

... Respondent

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 27.11.2020 and made in M.C.O.P.No.677 of 2016 on the file of the Motor Accident Claims Tribunal, I Additional District & Sessions Judge, Cuddalore.

For Appellants : Ms. Ramya V Rao

For Respondent : M/s. S.S.Santhosakumar



C.M.A.No.1918 of 2021

WEB COPY

JUDGMENT

The parent of the deceased Arul Prakash @ Arulprakasam have filed the instant appeal aggrieved by the award passed in M.C.O.P.No.677 of 2016 by the Motor Accidents Claims Tribunal, I Additional District & Sessions Judge, Cuddalore, for enhancement of compensation.

2. For the sake of convenience, the parties are referred to as per their ranks mentioned in the petition.

3. According to the petitioners, on 11.10.2015 at about 5.30 Hours, when the deceased Arul Prakash @ Arulprakasam was riding the Hero Honda Motorcycle bearing Registration No.TN-31-BB-3927 from South to North, on Kumbakonam Road, near Neycer Bus Stop, Vadalur, the respondent's TNSTC Bus bearing Registration No.TN-32-N-3800 which came from the opposite direction in a rash and negligent manner, dashed against the deceased's motorcycle. As a result of this, the deceased sustained fatal injuries and he later on, died in the hospital. According to the petitioner, the accident occurred only due to rash and negligent driving of the driver of the TNSTC bus, and the



C.M.A.No.1918 of 2021

WEB COPY

deceased was aged about 21 years, and earning Rs.12,000/- per month.

4. The respondent filed a counter statement, stating that there was no negligence on the part of the driver of the bus bearing Registration No. TN-32-N-3800. They would further dispute the age, avocation of the deceased and the dependency of the claimants. Therefore, they prayed for a dismissal of the petition.

5. Before the Tribunal, the first petitioner examined himself as PW1 and one Thennilavan, was examined as PW2 and marked 7 documents as Ex.P1 to Ex.P7. On the side of the respondent, neither the witness was examined, nor the document was marked.

6. The Tribunal, based on the materials available on record and the evidence, has observed that the accident had occurred due to the negligent driving of the driver of the TNSTC bus. Hence fixed the liability on the Transport Corporation and awarded a total compensation of Rs.12,49,600/- with interest at 7.5% per annum from the date of the petition. Feeling aggrieved with the quantum so awarded, the petitioners/claimants have



preferred this appeal seeking enhancement of the same.

WEB COPY

7. The learned counsel for the appellants would submit that the Tribunal has erred in awarding a meagre sum of Rs.12,49,600/- as against the claim of Rs.25,00,000/- claimed by the appellants / claimants. The learned counsel further submitted that, when the deceased was earning Rs.12,000/- per month working in Petrol Bunk, the Tribunal has erred in taking monthly income only at Rs.8,000/- per month. It is also submitted that the amounts awarded towards other heads are meagre and hence, the compensation awarded by the Tribunal needs interference at the hands of this Court by way of enhancement.

8. Per contra, the learned counsel for the respondent/Transport Corporation would submit that, after properly analysing the materials and evidence, the Tribunal has awarded the just compensation, hence, the same does not require any interference by this Court.

9. Heard the learned counsel appearing for the appellants and learned



WEB COPY

counsel appearing for the respondent and perused the materials available on record carefully.

10. In this case, the Tribunal after considering the evidence ultimately arrived at a conclusion that there was negligence on the part of the driver of the TNSTC Bus bearing Registration No.TN 32 N 3800. This portion of the finding is not in challenge before this Court. Therefore, the only point for consideration before this Court is in respect of the quantum of compensation.

11. With respect to the quantum, it is seen that the father of the deceased was examined as P.W.1. He deposed in his evidence that the deceased was aged about 21 years and was working in Petrol Bunk and earning Rs.12,000/- per month. To prove the avocation and income of the deceased, the appellants did not file any documents. Hence, the Tribunal fixed a sum of Rs.8,000/- per month as the notional income of the deceased and added 40% of the amount towards future prospects, and out of the resultant amount, deducted 1/2 towards personal expenses of the deceased, adopted 18 multiplier and awarded a sum of Rs.12,09,600/- towards loss of Income, which according to the petitioner is on the lower side.



WEB COPY

12. In this case, by relying Ex.P2- Postmortem Certificate and Ex.P3- Death certificate the Tribunal rightly fixed the age of the deceased as 21 years. The only objection raised by the learned counsel for the petitioners is that, the notional income fixed at Rs.8,000/- per month is highly inadequate. It is pertinent to mention here that the accident occurred in the year 2015. Therefore, taking in to consideration of the year of the accident, and the age of the deceased, this Court is of the view that fixing a sum of Rs.10,000/- towards notional income, for a person aged about 21 years would be proper and reasonable. Hence, this Court determine the monthly income of the deceased as Rs.10,000/-.

13. By applying the ratio of the judgment of the Hon'ble Supreme Court, reported in **2017 (2) TNMAC 609 (SC) (National Insurance Company v. Pranay Sethi & others)**, 40% of the monthly notional income to be added towards future prospects. The Tribunal has rightly taken the multiplier as '18', by following **Sarla Verma and others Vs. Delhi Transport Corporation and another** reported in **2009 ACJ 1298 SC**. Further, the deceased being a bachelor, 50% has to be deducted from the above



WEB COPY

multiplicand towards the deceased personal expenses. Thus the loss of income and dependency works out to Rs.15,12,000/- ([Rs.10,000/- + Rs.4,000/-] x 12 x 18 x 1/2). Accordingly, the compensation towards loss of income and dependency is hereby enhanced to Rs.15,12,000/-.

14. That apart, the Tribunal has awarded Rs.10,000/- towards Transport expenses, which, in the opinion of this Court, is just and reasonable and hence, the same need not be interfered with. However, the award of Rs.20,000/- (Rs.10,000 x 2) towards loss of love and affection to the appellants, and Rs.10,000/- towards funeral expenses, in the opinion of this Court, appear to be on the lower side. Hence, the same are hereby enhanced to Rs.80,000/- (Rs.40,000 x 2), and Rs.15,000/- respectively. Further, no amount was awarded towards loss of estate and hence, a sum of Rs.15,000/- is hereby awarded under this head, in the given facts and circumstances of the case.

15. Thus, the details of the modified compensation are as follows:



S.No	Various Heads	Awarded by the Tribunal	Awarded by this Court	Award confirmed or enhanced or increased or reduced
1.	Loss of Income	Rs.12,09,600/-	Rs.15,12,000 /-	Enhanced
2.	Funeral expenses	Rs.10,000/-	Rs.15,000/-	Enhanced
3.	Love and affection	Rs.20,000/-	Rs.80,000/-	Enhanced
4.	Transport Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
5.	Loss of Estate	---	Rs.15,000/-	Awarded
	Total	Rs.12,49,600/-	Rs.16,32,000/-	Enhanced

16. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.12,49,600/- is hereby enhanced to Rs.16,32,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit of the amount. The respondent/ Transport Corporation is directed to deposit the modified amount of compensation, as ordered above, along with interest and costs, after deducting the amount if any, already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposits being made, the appellants are permitted to withdraw their share as apportioned by the Tribunal, on making proper application before the Tribunal. It is made clear that the appellants/claimants have to pay the appropriate Court fee, before receiving the awarded amount. There is no order as to the cost of this appeal.



WEB COPY

av



C.M.A.No.1918 of 2021

21.07.2023

Index : yes/no

Speaking/Non Speaking Order

To

1. The I Additional District & Sessions Judge,
Motor Accident Claims Tribunal,
Cuddalore.
2. The Section Officer,
V.R.Section, High Court,
Madras.



WEB COPY



C.M.A.No.1918 of 2021

C.KUMARAPPAN, J.

av

Pre-Delivery Judgment
in
C.M.A.No.1918 of 2021

21.07.2023