



C.M.A.No.2021 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM:

**THE HONOURABLE MR. JUSTICE K. RAJASEKAR**

Civil Miscellaneous Appeal No.2021 of 2021

1. K. Allimuthu

2. Vennila

... Appellants/Petitioners

Vs.

The Managing Director,  
Tamil Nadu State Transport Corporation,  
Villupuram – Divn.1 Ltd.,  
No.3/137, Salamedu, Vazhuthareddy Post,  
Villupuram – 605602.

... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree, dated 21.01.2021 made in M.C.O.P.No.4376 of 2018 on the file of the Motor Accidents Claims Tribunal, I Additional District and Sessions Judge, Cuddalore.

For Appellants : M/s. Ramya V. Rao

For Respondent : Mr. S. S. Santhosakumar

JUDGMENT

The Civil Miscellaneous Appeal has been filed by the claimants who are the parents of the deceased Dhanalakshmi, for enhancement of



compensation against the award passed in M.C.O.P.No.4376 of 2018, dated 21.01.2021, on the file of the Motor Accident Claims Tribunal, I Additional District and Sessions Court, Cuddalore, for the death of their daughter in the road accident.

2. The parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The case of the claimants is that on 22.06.2018 at about 8.00 hours, the deceased Dhanalakshmi was travelling as a passenger in the respondent Transport Corporation bus, bearing Registration No.TN 32 N 2813 on Edayarkuppam to CN Palayam for going to School while the bus reached near konjikuppam Bus Stop, the driver of the bus rash and negligent manner applied sudden brake, which resulted in causing fatal injuries to the deceased and she succumbed to the same.

4. The respondent - Transport Corporation has contested the claim and filed counter and contended that the driver of the bus drove the same with due care and caution but the deceased did not follow the instructions of the conductor and stood near staircase which resulted in causing injuries to



her. The driver of the bus is not responsible for the accident and the respondent is not liable to pay compensation. The respondent - Transport Corporation has also disputed the age, education qualification of the deceased and the other factual aspects stated in the petition. Hence, prays to dismiss the appeal.

5. Before the Tribunal, on the side of the claimants P.W.1 and P.W.2 was examined and Exs.P1 to P9 were marked. On the side of the respondent R.W.1 was examined and no documentary evidence marked.

6. Based on the evidences placed on record, the Tribunal in Point No.1 has held that the driver of the bus has negligently driven the bus and caused the accident. In Point No.2 the Tribunal has quantified the compensation and awarded a sum of Rs.9,00,000/- as compensation.

7. Aggrieved over the quantum of compensation awarded, the claimants have come forward with this appeal seeking enhancement of compensation.



8. M/s. Ramya V. Rao, learned counsel for the claimants has submitted that the notional income fixed by the Tribunal is not in accordance with the norms followed by this Court for the accident occurred in the year 2018. In this case, the age of the deceased is 16 years and the Tribunal has awarded Rs.7,500/- as notional income which is on the lower side, hence prays to enhance the award. She has also contended that the compensation awarded under various other heads are also on the lower side and prays to revise the same.

9. Mr. S. S. Santhosakumar learned counsel for the Transport Corporation has vehemently contended that the Tribunal has fixed the quantum of compensation based on the evidences placed on record and the Tribunal has awarded compensation under various other heads are also just and proper and reasonable and the interest awarded is also on the higher side hence prays to modify the same.

10. I have considered the rival submissions made on both sides and also perused the records available on record.

11. Before the Tribunal, the claimants have marked School Certificate



of the deceased issued by the Principal of Government Higher Secondary School, C.N.Palayam, to show that the deceased herein was studying Standard 11. Based on the evidences placed on record, the Tribunal has fixed the notional income of the deceased as Rs.7,500/- per month and this Court is of the view that since the deceased was student of 11<sup>th</sup> standard and considering the date of accident, fixing the notional income of the deceased as Rs.10,000/- per month would be appropriate. Accordingly, this Court fixed the notional income of the deceased as Rs.10,000/- per month. As per the Judgment of the Hon'ble Apex Court in ***National Insurance Company Ltd., vs. Pranay Sethi and Others [2017 (16) SCC 680]***, the claimants are entitled to get 40% future prospects and the petitioner is being a child 50% to be deducted as personal expenses of the deceased. The age of the deceased is 16 years at the time of accident and the Tribunal has applied appropriate multiplier '18' as per the Judgment of the Hon'ble Apex Court in ***Sarla Verma and Others vs. Delhi Transport Corporation and Another [2009 (2) TNMAC 1 SC : 2009 (6) SCC 121]***. Accordingly, the loss of income arrived at Rs.15,12,000/- [10,000 + 4000 (40% of 10000) x 12 x 18 x 1/2 ].

12. The Tribunal has also awarded Rs.60,000/- separately under the



head of loss of love and affection and this Court is of the view that the same is on the higher side and as per the Judgment of the Hon'ble Apex Court in ***Pranay Sethi and others*** case cited above, all the claimants are entitled for loss of consortium. Accordingly, for each claimants a sum of Rs.40,000/- is awarded under the head Loss of Consortium and hence, the head of loss of love and affection separately awarded by the Tribunal is hereby rejected. As far as the other heads such as Funeral Expenses and Transport Expenses are concerned, the Tribunal awarded reasonable amount of Rs.15,000/- respectively and this Court is of the view the same is just and proper and the same is hereby confirmed.

13. Thus the compensation awarded by the Tribunal under various heads are hereby 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 dependency         | Rs.8,10,000/-                   | Rs.15,12,000/-                    | Enhanced                               |
| 2.    | Loss of Love and Affection | Rs.60,000/-                     | ---                               | Rejected                               |
| 3.    | Funeral Expenses           | Rs.15,000/-                     | Rs.15,000/-                       | Confirmed                              |
| 4.    | Transport Expenses         | Rs.15,000/-                     | Rs.15,000/-                       | Confirmed                              |
| 5     | Loss of Consortium         | ---                             | Rs.80,000/-                       | Granted                                |



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|                           |                      |                       |                      |
|---------------------------|----------------------|-----------------------|----------------------|
| <b>Total Compensation</b> | <b>Rs.9,00,000/-</b> | <b>Rs.16,22,000/-</b> | <b>Enhanced by</b>   |
|                           |                      | <b>-</b>              | <b>Rs.7,22,000/-</b> |

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.9,00,000/- is hereby enhanced to Rs.16,22,000/- [Rupees Sixteen Lakhs and Twenty Two Thousand only] together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The respondent-Transport Corporation is directed to deposit the award amount, now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.4376 of 2018, on the file of the Motor Accidents Claims Tribunal, I Additional District and Sessions Court, Cuddalore. On such deposit, the appellants/claimants are permitted to withdraw the amount as per the apportionment fixed by the Tribunal, now awarded by this Court, along with proportionate interest and costs, less the amount, if any, already withdrawn. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the claimant, without any formal application. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as



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to costs in the present appeal.

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No

K.RAJASEKAR,J.

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To:

1. The I Additional District and Sessions Judge,  
Motor Accidents Claims Tribunal,  
Cuddalore.
2. The Section Officer,  
V.R.Section,  
High Court,  
Chennai.

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