



C.M.A.No.1993 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1993 of 2020

1.Chenniyappan
2.Annaporani

... Appellants

Vs.

1.N.Nandhakumar
(Since R1 remained exparte before the
Tribunal his presence may be dispensed with)

2.The Managing Director
Tamil Nadu State Transport Corporation Limited,
No.37, Mettupalayam Road,
Coimbatore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 31.01.2019 and made in M.A.C.T.O.P.No.1256 of 2017 on the file of the Motor Accidents Claims Tribunal, the I Additional District Court, Tiruppur.

For Appellants : Ms.A.Subadra
For Respondents : R1 – NDW
Mr.Murali Vinodh for R2

J U D G M E N T

This appeal has been filed by the appellants/ claimants



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challenging the judgment and decree passed in M.C.O.P.No.1256 of 2017 dated 31.01.2019 on the file of the Motor Accidents Claims Tribunal, the I Additional District Court, Tiruppur.

2.The brief facts of the case is that on 11.07.2016 at about 14.45 hours, the deceased Gowrishankar was driving the Hero Honda Splendor bearing Registration No.TN 67 C 4325 in Perundurai Road near Iswaryam Hotel from North direction towards Chennimalai. At that time, the driver of another bike Pulzar bearing Registration No.TN 56 E 9856 came in the opposite direction in a rash and negligent manner and hit the motorcycle driven by the said Gowrishankar. At that time, the driver of the Government Bus bearing Registration No.TN 38 N 2898 drove the vehicle in a rash and negligent manner and dashed against the said Gowrishankar, due to which, he died on the spot.

3.Thereafter, the parents of the deceased Gowrishankar/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.45 Lakhs as compensation for the death of their son. After adjudication, the Tribunal awarded a sum of Rs.15,28,000/- as compensation along with interest at the rate of



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7.5% per annum from the date of filing of the petition till the date of deposit with proportionate costs and directed that the second respondent to deposit the compensation. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants submitted that the deceased was employed as School Van Driver in Ramakrishna Nursery Primary School, Chennimalai and was earning a sum of Rs.20,000/- per month and to substantiate the same, the appellants marked Ex.P5 – salary certificate of the deceased and Ex.P6 – driving licence of the deceased and also examined P.W.3 – co-employee, however, the Tribunal fixed a sum of Rs.10,000/- per month as the notional income of the deceased and awarded a meagre compensation. Hence, the appellants are entitled for enhanced compensation.

5.Per contra, the learned counsel appearing for the second respondent Transport Corporation submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.



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6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7.Admittedly, on 11.07.2016 at about 14.45 hours, the deceased Gowrishankar was driving the motorcycle in Perundurai Road near Iswaryam Hotel from North direction towards Chennimalai. At that time, another motorcycle came in the opposite direction in a rash and negligent manner and hit the motorcycle driven by the said Gowrishankar. At that time, the driver of the bus belonging to the second respondent drove the vehicle in a rash and negligent manner and dashed against the said Gowrishankar, due to which, he died on the spot.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation.

9.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.14,28,000/- for loss of income, Rs.15,000/- for



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funeral expenses, Rs.5,000/- for transport expenses, Rs.80,000/- for loss of consortium and arrived at a total compensation of Rs.15,28,000/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit.

10. In order to substantiate the employment and income of the deceased, the appellants examined P.W.3 – co-employee of the deceased and he deposed that the deceased earned a sum of Rs.20,000/- per month, however, the Correspondent of the School who issued Ex.P5 – salary certificate was not examined by the appellants. The evidence let in by P.W.3 is not worthwhile. Hence, this Court fix a sum of Rs.16,000/- as the monthly notional income of the deceased. Since the deceased was a bachelor, $\frac{1}{2}$ of the amount has to be deducted towards personal expenses. The deceased was aged 28 years at the time of death. Hence, the correct multiplier to be adopted is 17. Hence, the amount awarded for loss of income works out to Rs.16,32,000/- [Rs.8,000/- X 12 X 17 = Rs.16,32,000/-].

11. This Court is inclined to award future prospects separately. Accordingly, this Court awards 40% of actual loss of income for future prospects, which comes to Rs.6,52,800/- [40% of Rs.16,32,000/- =



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Rs.6,52,800/-]. This Court is of the opinion that some amount has to be awarded for loss of estate. Accordingly, this Court awards a sum of Rs.15,000/- for loss of estate. The amount awarded under the head funeral expenses and loss of consortium, in the opinion of this Court is just and reasonable and the same are confirmed. The amount awarded under the head transport expenses, in the opinion of this Court is not necessary and the same is deleted.

12. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs.14,28,000/-	Rs.16,32,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of consortium	Rs. 80,000/-	Rs. 80,000/-
4.	Future prospects 40%	---	Rs. 6,52,800/-
5.	Loss of estate	---	Rs. 15,000/-
6.	Transport expenses	Rs. 5,000/-	---
	Total	Rs.15,28,000/-	Rs.23,94,800/-

13. The claimants are entitled to total compensation of Rs.23,94,800/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit.



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14.The civil miscellaneous appeal is allowed on the above terms.

The judgment and decree passed in M.C.O.P.No.1256 of 2017 dated 31.01.2019 by the Motor Accidents Claims Tribunal, the I Additional District Court, Tiruppur, is modified to the above extent.

15.The second respondent Transport Corporation is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, I Additional District Court, Tiruppur, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.



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M.DHANDAPANI,J.
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16.The civil miscellaneous appeal is allowed. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
I Additional District Court, Tiruppur.

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