



C.M.A.No.2227 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No.2227 of 2021

1. S.Shankar

2. Minor S.Sarathi

(Minor petitioner rep. By father, guardian, NF
S.Shankar, the 1st appellant herein)

... Appellants

vs.

The General Manager,
Tamil Nadu State Transport Corporation,
(VPM Divn.1) Ltd.,
Cuddalore Region,
Cuddalore.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 24.02.2021 in M.C.O.P.No.2310 of 2019, on the file of the Motor Accident Claims Tribunal/I Additional District & Sessions Court, Cuddalore.

For Appellants : Mrs.Ramya V.Rao

For Respondent : M/s. Kothai Muthu Meenal
for Mrs.J.Tamil Selvi

JUDGMENT



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Not being satisfied by the Award passed in MCOP No.2310 of 2019

dated 24.02.2021 on the file of the Motor Accident Claims Tribunal /

I Additional District & Sessions Judge, Cuddalore, the father and minor brother of the deceased Chandru have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. The claim application was filed under Section 166 (1) of Motor Vehicles Act 1988, claiming compensation of Rs.50,00,000/-.

3. The Tribunal, after hearing both sides arguments and upon considering the oral and documentary evidence, has granted compensation for an amount of Rs.12,69,600/- with interest at the rate of 7.5% per annum.

4. The learned counsel for the appellant would strenuously argue that the deceased was aged about 21 years and was a student of Polytechnic College and he was doing a part time job and earning a sum of Rs.15,000/- per month. However, the Tribunal has fixed the notional income as Rs.8,000/- is very less and prayed for enhancement of compensation.



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5. Per contra, the learned counsel appearing for the respondent/
Tamil Nadu State Transport Corporation, Cuddalore, would vehemently contend that in connection of the oral and documentary evidence, the Tribunal has fixed the income of the deceased as Rs.8,000/- is reasonable. She would also further contend that though the deceased was stated to be doing part-time job, no proof for the same was filed. She would further argue that the amounts awarded for other heads appears to be reasonable and hence, need not to be interfered with the Award passed by the Tribunal and prayed to dismiss the appeal.

6. The manner in which the accident is taken place is not in dispute. However, it could be seen from the evidence of ocular witness P.W.2 that on 20.02.2019 at about 18.15 hours, while the deceased Ajith @ Ajith Kumar was riding a Bajaj Pulsar Motorcycle bearing Registration No. TN-20-BK-8313 along with pillions deceased Chandru and Sivakumar, from east to west, driven at a moderate speed along the left side of Panruti to Salem Main Road near “ESSAR” Petrol Bunk, Veeraperumalnallur, the driver of the respondent bus bearing Registration No.TN-32-3145 came at a high speed and also in a rash and negligent manner dashed the said



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motorcycle from behind. Due to the impact, all the three persons were thrown away and despite the medical treatment, they succumbed to the injuries.

7. As regards, the deceased Chandru, it is the evidence of P.W.2 that he was doing Diploma Course in a Polytechnic College and he was also doing part time job and thereby earning a sum of Rs.15,000/- per month. Ex.P15 is the identity card of the deceased Chandru. Ex.P16 is the copy of the combined mark sheet of the deceased Chandru issued by the Government of Tamil Nadu Department of Technical Education, Chennai. It appears that he was doing Mechanical Engineering Diploma Course. Though he was stated to be doing part time job, no proof was filed for the same. The Tribunal has fixed the age of the deceased Chandru as 21 years relying upon the Post Mortem Certificate-Ex.P12, which is not in dispute. The date of accident is 22.10.2019.

8. As regards, the future prospects in *National Insurance Co. Ltd., Vs. Pranay Sethi and others*, reported in *2017 (2) TN MAC 609 (SC)*, the Apex Court has standardised the details of future prospects. For the



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persons, who are below 40 years, 40% to be added while computing the monthly income. The deceased appears to have died at the age of 21 years in a road accident. As he was stated to be a student of Polytechnic College, as per the copy of the combined mark sheet of the deceased Chandru issued by the Government of Tamil Nadu Department of Technical Education, Chennai.

9. As per the judgment of the Hon'ble Apex Court in ***Sarla Verma & others Vs. Delhi Transport Corporation & another*** reported in **2009 (2) TNMAC 1 SC Supreme Court**, the deceased was a bachelor at the relevant point of time, the proper multiplier to be adopted is “18” and the Tribunal rightly deducted 50% towards personal expenses of the deceased. Thus, the loss of dependency is reworked and calculated as follows: Age of the deceased: Rs.15,12,000/- {Rs.14,000/- [Rs.10,000/- + Rs.4,000/- (40% of Rs.10,000/-)] X 12 X 18 X ½}.

10. Since the Tribunal did not award any amount towards loss of filial consortium, a sum of Rs.40,000/- each is granted. The appellants are granted a sum of Rs.15,000/- towards loss of estate. In other aspects, the



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amounts awarded by the Tribunal appears to be reasonable and hence, the same needs no interference.

11.Thus, the amounts awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For Loss of Dependency	12,09,600/-	15,12,000/-	Enhanced
2.	For Loss of Estate	-	15,000/-	Granted
3.	For loss of filial consortium	-	40,000/-	Granted
4.	For Loss of love and affection	30,000/-	30,000/-	Confirmed
5.	For Transport Expenses	15,000/-	15,000/-	Confirmed
6.	For Funeral Expenses	15,000/-	15,000/-	Confirmed
	Total	Rs.12,69,600/-	Rs.16,27,000/-	
	Less : 20% Contributory negligence on the part of the deceased	Rs.2,53,920/-	Rs.3,25,400/-	
		Rs.10,15,680/-	Rs.13,01,600/-	



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12.In the result,

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12(i).This Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs. 10,15,680/- is hereby enhanced to Rs.13,01,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

12(ii).The respondent/Tamil Nadu State 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 eight weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2310 of 2019 on the file of the Motor Accidents Claims Tribunal, I Additional District and Sessions Judge, Cuddalore.

12(iii).On such deposit, the appellants are permitted to withdraw their respective share of the award amount as per the ratio of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary cheque applications before the Tribunal. No costs.

30.06.2023

Index : Yes/No

Speaking / Non-speaking order

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R.KALAIMATHI, J.,

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To:

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

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