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CMA.No.1931 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.1931 of 2022

1.Gowrammal @ Muniammal
2.Varalakshmi
3.Rathinammal
4.Ellammal
5.Venkatesh
6.Krishnammal
7.Minor Perumal
Rep. by mother Rathinammal

... Appellants

-Vs-

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Regional Office, Bharathipuram,
Dharmapuri – 5.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Judgment and Decree dated 31.01.2018 made in M.C.O.P.No.361 of 2017 on the file of the Motor Accident Claims Tribunal and Additional District Judge (FAC), Krishnagiri.

For Appellant : Mr.S.P.Yuaraj

For Respondent : Mr.D.Nithin



CMA.No.1931 of 2022

WEB COPY

JUDGMENT

A certain Kondappa was fatally knocked down on 07.11.2010 at about 12.00 noon, while he was standing on the side of a road, when the bus bearing Regn.No.TN 29 N 1587 belonging to the respondent Transport Corporation dashed against him. The accident took place near the Government Hospital, Hosur, where he was immediately taken to. He was later removed to another hospital in Hosur, where he died. Seeking compensation, his seven dependents, which includes his widow and children have approached the Tribunal.

2.The victim of the accident was stated to be a vegetable vendor and the Tribunal had fixed his income notionally at Rs.4,000/- per month and applied a multiplier of 11 and deducted $\frac{1}{4}^{\text{th}}$ of the income towards the personal expenditure of the victim and arrived at a sum of Rs.3,96,000/- under the head of loss of dependency. After adding the compensation under the other conventional heads, it arrived at a net sum of Rs.7,26,000/-. Aggrieved by the inadequacy of the compensation awarded, the claimants are before this Court with this Appeal.



CMA.No.1931 of 2022

WEB COPY

3.The learned counsel for the appellant submitted that the notional income as fixed by the Tribunal is on the lower side and besides the Tribunal has not granted anything towards transport expenses nor has it adequately compensated to the loss of estate.

4.Per contra, the learned counsel for the respondent submitted that the accident had taken place in 2010 and the claimants have not produced any material worthy enough to arrive at a conclusion that the victim might be earning more.

5.It is not disputed that the victim has been supporting a large family of seven members. Obviously, he could not have supported it unless he has made at least Rs.7,000/- a month in 2010. This Court therefore reckons the monthly income at Rs.7,000/-. Even though the claimants have contended that the victim was 45 years old, the Postmortem report, which is the only other document made available by the claimants, shows that he was 55 years at the relevant time. Therefore, this Court adds another 10% towards his future prospects, which implies, the base amount will be Rs.7,700/- and applying a multiplier of 11 and deducting 1/4th towards



CMA.No.1931 of 2022

his monthly expenditure, this Court arrives at a sum of Rs.7,62,300/- on the head of loss of dependency. Towards, transport charges, this Court awards another Rs.10,000/- and towards loss of estate, this Court grants another Rs.10,000/-.

6.The compensation awarded by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is enhanced from Rs.7,26,000/- to Rs.11,12,300/-, break-up as follows -

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	3,96,000/-	7,62,300/-	Enhanced
2.	Loss of consortium	50,000/-	50,000/-	Confirmed
3.	Love and affection	2,50,000/-	2,50,000/-	Confirmed
4.	Funeral expenses	25,000/-	25,000/-	Confirmed
5.	Loss of estate	5,000/-	15,000/-	Enhanced
6.	Travel charges	-	10,000/-	-
	Grand Total	7,26,000/-	11,12,300/	Enhanced by



CMA.No.1931 of 2022

WEB COPY

			-	3,86,300/-
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7. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,26,000/- is hereby enhanced to Rs.11,12,300/- together with interest at 7.5% per annum (excluding the default period if any) from the date of 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 eight (8) weeks from the date of a receipt of copy of this Judgment. On such deposit the appellants 1 to 6 are permitted to withdraw the award amount along with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, less the amount if any, already withdrawn and the compensation amount pertaining to the 7th appellant viz., Minor Perumal is directed to be deposited in a nationalised Bank in the interest bearing Fixed Deposit till the minor attains the age of majority and the mother of the minor viz., Rathinammal is permitted to withdraw the accrued interest on the deposit of the minor once in six months. The appellants are directed to pay the necessary



CMA.No.1931 of 2022

Court Fee, if any, on the enhanced award amount. No costs.

WEB COPY

30.10.2023

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CMA.No.1931 of 2022

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- 1.The Motor Accident Claims Tribunal,
Additional District Judge (FAC), Krishnagiri.
- 2.The Section Officer,
V.R.Section, High Court, Madras.

N.SESHASAYEE, J.,

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CMA.No.1931 of 2022

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30.10.2023