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C.M.A.No.1326 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A. No. 1326 of 2023
and Cros.Obj.No.52 of 2023
and C.M.P.No.13266 of 2023

CMA.No.1326 of 2023:

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Salem

... Appellant

Versus

1.A.Rani
2.R.Lalitha
3.A.Raja
4.S.Chandra

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, seeking to set aside the judgement and decree passed in MCOP.No.76 of 2017 passed by the Motor Accidents Claims Tribunal Subordinate Judge, Attur on 28.07.2022.

For Appellant : Mr.D.Nitin

For R1 to R4 : Mr.R.Nalliyappan



C.M.A.No.1326 of 2023

Cros.Obj.No.52 of 2023:

WEB COPY

1.A.Rani
2.R.Lalitha
3.A.Raja
4.S.Chandra

... Appellants

Versus

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Salem

... Respondent

PRAYER:

Cross Objection filed under Order 41 Rule 22 of Code of Civil Procedure, seeking to enhance the award with interest at the rate of 18% per annum and costs.

For Cross Objectors : Mr.R.Nalliyappan

For Respondent : Mr.D.Nitin

COMMON JUDGMENT

The appeal has been filed by the appellant/transport corporation to set aside the judgement and decree passed in MCOP.No.76 of 2017 passed by the Motor Accidents Claims Tribunal Subordinate Judge, Attur on 28.07.2022.



C.M.A.No.1326 of 2023

WEB COPY

2. The Cross Objection has been filed by the claimants to enhance the award with interest at the rate of 18% per annum and costs.

3. For the sake of convenience, the parties are referred as per their rank in the claim petition.

4. The claimants filed the claim petition before the Tribunal seeking compensation stating that on 06.06.2017, while the deceased was walking on a public road, the driver of the bus belonging to appellant-Corporation drove the bus in a rash and negligent manner, and dashed against the deceased, due to which the deceased sustained fatal injuries.

5. The appellant filed a counter stating that the accident took place only because the deceased suddenly crossed the road and that in any case, the compensation claimed is excessive and prayed for dismissal of the claim petition.



C.M.A.No.1326 of 2023

WEB COPY

6. Before the Tribunal, the claimants had examined two witnesses and marked Ex.P.1 to Ex.P.13 on their side. On behalf of the respondent, one witness was examined and no document was marked.

7. The Tribunal after considering the oral and documentary evidence had held that the accident occurred due to rash and negligent driving by the driver of the bus, belonging to the appellant and directed the appellant to pay a sum of Rs.7,00,700/- to the claimants.

8. Aggrieved over the award passed by the Tribunal, the appellant/Corporation filed the present appeal to set aside the order and claimants filed the cross objection seeking for enhancement of compensation.

9. The learned counsel appearing for the appellant submitted that the award of the Tribunal is excessive and in any case, the Tribunal ought not to have awarded the interest at the rate of 9% per annum and prayed for reduction of the same.



WEB COPY 10. The learned counsel appearing for the claimants/cross objectors submitted that though the claimants established that the deceased was working as a coolie and was aged about 60 years, the Tribunal fixed the notional income at a sum of Rs.7,000/- per month which is meagre and prayed for enhancement of compensation.

11. The questions involved in the present appeal are as follows:

- (a) Whether the Tribunal was right in awarding interest at the rate of 9% per annum? and
- (b) Whether the compensation awarded by the Tribunal is just and reasonable?

12. As regards the first question, it is seen that this Court is of the view that the Tribunal ought not to have awarded interest at the rate of 9% per annum and it would be just and reasonable to fix the interest at the rate of 7.5% per annum, which is the interest rate awarded consistently by this Court.

13. As regards the second question, it is seen that though the claimants have not established the income of the deceased, the notional



C.M.A.No.1326 of 2023

income fixed by the Tribunal is meagre. Hence, this Court is of the view that it would be appropriate to fix a sum of Rs.10,000/- per month as notional income, considering the age and avocation of the deceased and the year of accident. Therefore, the compensation under the head “Loss of Dependency” shall be calculated by adding 10% future prospects as the deceased was aged 60 years, as follows:

$$\begin{aligned} &\text{Rs.11,000/- (notional income) * 12 (months) * 9} \\ &\text{(multiplier) * } \frac{3}{4} \text{ (dependency, since } \frac{1}{4} \text{ has been deducted} \\ &\text{towards personal expenses) = Rs.8,91,000/-} \end{aligned}$$

14. As regards the compensation under the head “Loss of Consortium”, it is seen that the first appellant is entitled for Rs.40,000/- and the appellants 2 to 4 shall be awarded a sum of Rs.40,000/- each towards the “Loss of Love and Affection”. Hence, the compensation under the head “Loss of Love and Affection” is awarded at a sum of Rs.1,20,000/-. Compensation under the heads “Loss of Estate” and “Funeral Expenses” is reduced to Rs.15,000/- each.

15. The amount awarded by the Tribunal under other heads are just and reasonable. Thus, the compensation awarded by the Tribunal is



C.M.A.No.1326 of 2023

modified as follows:

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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	6,23,700	8,91,000	Enhanced
2.	Loss of Estate	16,500	15,000	Reduced
3.	Loss of Consortium	44,000 (for claimants 1 to 4)	40,000 (for first claimant alone)	Enhanced
4.	Funeral Expenses	16,500	15,000	Reduced
5.	Loss of love and affection	Nil	1,20,000 (for claimants 2 to 4)	Granted
	Total	7,00,700	10,81,000	Enhanced by Rs.3,80,300/-

16. With the above modification, the Civil Miscellaneous Appeal and the Cross Objection are partly allowed. Accordingly, the rate of interest is reduced to 7.5% per annum and the compensation awarded by the Tribunal at Rs.7,00,700/- is hereby enhanced to Rs.10,81,000/- 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 appellant is



C.M.A.No.1326 of 2023

directed to deposit the enhanced award amount now determined by this Court along with interest at the rate of 7.5% per annum and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit the cross objectors 1 to 4 are permitted to withdraw their respective shares along with interest and costs, less the amount if any, already withdrawn. The cross objectors are directed to pay the necessary Court fee, if any on the enhanced award amount. No costs. Consequently, the connected miscellaneous petitions are also closed.

27.09.2023

nsa

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To:

- 1.The Subordinate Judge,
The Motor Vehicle Accident Tribunal,
Attur.
- 2.The Section Officer,
VR Section,



High Court, Madras.

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C.M.A.No.1326 of 2023



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C.M.A.No.1326 of 2023

SUNDER MOHAN, J.

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C.M.A. No. 1326 of 2023
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