



C.M.A.No.1064 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.07.2023

Coram

The Hon'ble Mr.Justice SUNDER MOHAN

C.M.A.No.1064 of 2023

1.R.Balaji
2.B.Harshini
3.B.Sabarishwar
causetitle amended as per order,
dated 03.01.2023 passed in
C.M.P.No.22121 of 2022 of this Appeal.

Vs.

1. The Managing Director,
Metropolitan Transport Corporation,
(Chennai Division) Ltd.,
Pallavan House, Anna Salai, Chennai.

V.Sunatha Priya (died)

2. K.Vijaya Rangam

...Respondents

Prayer :-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 30.09.2021, made in M.C.O.P.No.4212 of 2018, on the file of the



C.M.A.No.1064 of 2023

Motor Accident Claims Tribunal (IV Judge ,Small Causes Court)
Chennai.

For Appellants : Mr.M.Sridhar
For Respondent-1 : Mr.M.Murali Vinoth
Respondent-2 : No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the award passed by the Motor Accident Claims Tribunal (IV Judge, Small Causes Court) Chennai (hereinafter, referred to as 'the Tribunal') dated 30.09.2021, made in M.C.O.P.No.4212 of 2018.

2. The Claim Petition was filed by the petitioners/appellants stating that on 19.04.2018, at about 18.20 hours, when V.Jayanthi (since deceased) was riding her motorcycle, viz., TVS Scooty Pep Plus, bearing Registration No.TN 20 AT 7754 at Poonammallee High Road, opposite to Daniel Thomas Matriculation School, (Incoming) Madhuravoyil, Chennai, proceedings towards east to west direction,



C.M.A.No.1064 of 2023

the 1st respondent's Bus, bearing Registration No.TN 01 N 4691 came behind the said V.Jayanth, in the same direction, in a rash and negligent manner and dashed against her and caused the accident. Due to the said accident, the said V.Jayanthi sustained fatal injuries and died in the Hospital. Hence, the husband, two children and parents of the deceased filed a Claim Petition, claiming a sum of Rs.2,00,000,00/- as compensation.

3. The respondent, Transport Corporation filed a counter statement denying all the averments made in the Claim Petition and stated that since the deceased was riding the motorcycle too close to the bus, lost balance and fell down, which resulted in the accident; that driver of the bus owned by the respondent/Corporation was not at fault; that the respondent/Corporation is not liable to pay any compensation to the petitioners/appellants; and that in any case, the compensation claimed is excessive and prayed for dismissal of the claim petition.



C.M.A.No.1064 of 2023

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4. Before the Tribunal, the first appellant/first claimant examined himself as P.W.1 besides examining one other witness, viz., S.Suresh as P.W.2 and marked Ex.P.1 to Ex.P.15 on their side. On the side of the respondent/Corporation, one witness was examined, however, no documents were marked.

5. The Tribunal after considering the oral and documentary evidence held that the accident occurred on account of the rash and negligent driving of the bus by its driver and directed the respondent to pay a compensation of Rs.57,55,600/- to the appellants.

6. Aggrieved over the award passed by the Tribunal, the appellants/claimants have filed the present appeal seeking for enhancement of compensation.

7. Mr.M.Sridhar, learned counsel appearing for the appellants submitted that the award passed by the Tribunal needs to be



C.M.A.No.1064 of 2023

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enhanced. The learned counsel submitted that the deceased was working as a Teacher, in a Private School and had three dependents besides her parents to support. In these circumstances, the Tribunal ought to have awarded higher compensation under the head, 'Loss of Dependency'. The learned counsel further submitted that the award of compensation under the head, 'Loss of Love and Affection' and 'Transportation' has to be enhanced. Further, the learned counsel submitted that no amount was awarded under the head, 'Damage to the two Wheeler' owned by the deceased and prayed for allowing the appeal.

8. Per contra, Mr.M.Murali Vinoth, learned counsel appearing for the first respondent, Metropolitan Transport Corporation submitted that the salary certificate of the deceased was marked as Ex.P.7, in which, the monthly income of the deceased was mentioned as Rs.37,668/- per month. The Tribunal had taken the income of the deceased as shown in the salary certificate, and accordingly,



C.M.A.No.1064 of 2023

WEB COPY

determined the award of compensation under the head, 'Loss of Dependency', and there is no error in the said award of compensation. The learned counsel further submitted that the Tribunal had further awarded compensation under other heads as well and therefore, award of the Tribunal warrants no interference of this Court.

9. Heard the learned counsel appearing for the appellants as well as the first respondent and perused the materials placed on record.

10. The only question that arises for consideration in the instant appeal is, whether the quantum of compensation awarded by the Tribunal is just and reasonable?

10 (a). As regards the compensation awarded by the Tribunal under the head, 'Loss of Dependency', it is seen that the Tribunal had considered Ex.P.7, Pay Slip produced by the appellants/claimants to establish the income of the deceased, wherein, the income of the deceased was shown as Rs.37,668/- per month. The deceased was



C.M.A.No.1064 of 2023

WEB COPY

aged 44 years at the time of the accident, and hence, she is entitled to 30% towards future prospects. As the Tribunal arrived at Rs.5,87,620/-towards annual income of the deceased, this Court is of the view that the computation worked out under the head, Loss of Dependency is just and reasonable and there is no need to interfere with the same.

10 (b). As regards the compensation awarded by the Tribunal under the head, 'Loss of Love and Affection' is concerned, it is seen that there are four claimants/dependents, besides husband and each are entitled to Rs.40,000/- and therefore, the compensation awarded under the said head at Rs.1,50,000/- is enhanced to Rs.1,60,000/-. Similarly, the compensation awarded by the Tribunal under the head, 'Transportation' at Rs.5,000/- is enhanced to Rs.10,000/-. Insofar as the compensation awarded under other heads are concerned, this Court is of the view that the same is just and reasonable and is hereby confirmed.



C.M.A.No.1064 of 2023

10 (c). Finally, advertng to the grievance of the learned counsel for the appellants that no compensation was awarded by the Tribunal under the head, 'Damage to Property', (i.e. the damage caused to the two wheeler owned by the deceased) despite the appellants producing documents to establish that the deceased owned the Vehicle, this Court is of the view that no evidence has been let in to establish the actual damage caused to the vehicle due to the accident. However, even taking a conservative view of the matter, a sum of Rs.15,000/- can be awarded for the property loss suffered on account of the accident, considering the materials on record.

10 (d). Thus, the award of the Tribunal is modified as follows:-

<i>SL. No.</i>	<i>Head</i>	<i>Tribunal award</i>	<i>High Court Award</i>
1	Loss of Dependency	Rs.61,70,007/-	Rs.61,70,007/-
2	Loss of Consortium	Rs.40,000/-	Rs.40,000/-
3	Loss of Estate	Rs.15,000/-	Rs.15,000/-



C.M.A.No.1064 of 2023

<i>SL. No.</i>	<i>Head</i>	<i>Tribunal award</i>	<i>High Court Award</i>
4	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
5	Loss of Love and Affection	Rs.1,50,000/-	Rs.1,60,000/-
6	Transportation	Rs.5,000/-	Rs.10,000/-
7	Damage to Property		Rs.15,000/-
	Total	Rs.63,95,007/-	Rs.64,25,007/-
		Rs.63,95,000/-	Rs.64,25,000/-
	IT Deduction at 10%	Rs.57,55,506/- Rounded off to Rs.57,55,600/-	Rs.57,82,506 rounded off to Rs.57,82,600/-

11. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.57,55,600/- is hereby enhanced to Rs.57,82,600/- 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 first 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 (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellants are entitled to withdraw the compensation



C.M.A.No.1064 of 2023

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now determined by this Court equally, however, they are not entitled to the interest for the delayed period of 120 days in paying the deficit Court fee, as already observed by this Court, in its order, dated 01.02.2023, in C.M.P.No.1181 of 2023 in C.M.A.Sr.No.69661 of 2022. The appellants are permitted to withdraw their respective shares along with interest and costs, less the amount if any, already withdrawn, The appellants are directed to pay the necessary Court fee, if any, on the enhanced award amount. No costs.

27.07.2023

sd

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The IV Judge,

Small Causes Court,

Motor Accident Claims Tribunal, Chennai.

SUNDER MOHAN,J.,

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10/11



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C.M.A.No.1064 of 2023

C.M.A.No.1064 of 2023

27.07.2023