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C.M.A.No.1862 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.No.1862 of 2022

1.Sathiyavani

2.Rani

... Appellants

Versus

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Salai, Chennai – 600 043.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 21.02.2023 passed in M.A.C.T.O.P.No.3006 of 2020, on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.K.Ayyadurai

For Respondent : Mr.M.Murali Vinodh

JUDGMENT

This appeal has been filed by the appellants/claimants challenging the compensation awarded by the Tribunal in M.A.C.T.O.P.No.3006 of 2020, dated 21.02.2023.



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2.The claim petition was filed stating that on 19.10.2020 at about 22 hours, while the appellants' son was riding a motorcycle bearing Regn.No.TN03 AB 4953, near Auxilium Matriculation Higher Secondary School, Tiruvottiyur, Chennai, the bus bearing Regn No.TN 01 AN 2097 belonging to the respondent Corporation came in a rash and negligent manner, rammed against the motorcycle; that due to the said accident, the appellants' son sustained head injury and died on the spot; that thus, the appellants are entitled for compensation.

3.The respondent/Transport Corporation filed a counter denying all the averments made in the claim petition and stated that the driver of the bus drove the same in a careful manner observing all traffic rules; that the deceased rode the motorcycle in a rash and negligent manner without wearing helmet and tried to over take the bus and thus caused the accident and hence, the respondent was not liable to pay any compensation to the appellants; that in any case, the compensation claimed was excessive and prayed for dismissal of the claim petition.



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4.Before the Tribunal, the appellants examined two witnesses and marked Ex.P.1 to Ex.P.12 on their side. On behalf of the respondent, one witness was examined and no document was marked.

5.The Tribunal after considering the oral and documentary evidence had held that the accident occurred due to the rash and negligent driving by the driver of the bus belonging the respondent Corporation and directed the respondent to pay a sum of Rs.16,22,000/- as compensation to the appellants.

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

7.The learned counsel for the appellants submitted that though the appellants had established that the deceased was working as Fork Lift Operator and had license to drive heavy vehicle, the Tribunal had fixed a meagre notional income of Rs.10,000/- per month. The learned counsel also submitted that the compensation under the other conventional heads have to be enhanced by 10% as per the decision of the Hon'ble Apex



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Court in *National Ins. Co. vs. Pranay Sethi & others reported in 2017*

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(2) *TNMAC 609 (SC)* and prayed for allowing the appeal.

8.The learned counsel for the respondent per contra submitted that the Tribunal had rightly fixed the monthly income of the deceased at Rs.10,000/- when no evidence had been let in to prove the income or avocation of the deceased; and hence, prayed for dismissal of the appeal.

9.The only question involved in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable?

10.On perusal of the records, it is seen that the appellants have marked Ex.P7 to prove that the deceased had driving license to drive heavy vehicles. P.W.1-mother of the deceased had stated that the deceased was working as Fork Lift Operator and earning a sum of Rs.20,000/-plus Rs.1,000/- as daily batta. However, no documentary evidence was filed by the appellants to corroborate P.W.1's deposition. Considering the fact that the deceased had license for driving heavy vehicles, year of accident and the age of the deceased, this Court is of the view that it would be just and reasonable to fix the notional income of



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the deceased at Rs.16,000/- per month. The appellants are entitled to 40% enhancement towards future prospects and the multiplier applicable is 18. Since the deceased was bachelor, after deducting 1/2 towards personal expenses, the award under the head loss of income would be as follows:

$$\text{Rs.22,400/- (Rs.16,000/- + 40\%) X 12 X 18 X 1/2 = Rs.24,19,200/-}$$

Further, since the accident took place in the year 2020, the appellants are entitled for 10% enhancement under the conventional heads. Thus, the compensation awarded by the Tribunal under the heads loss of estate, loss of consortium and funeral expenses are enhanced to Rs.16,500/-, Rs.88,000/- and Rs.16,500/- respectively. It is well settled that the Tribunal and the Courts have to award just compensation. Though the claimants have claimed lesser compensation, the Courts have power to grant just compensation more than the amount claimed by the claimants. Thus, the compensation awarded by the Tribunal is 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 Income	15,12,000	24,19,200	Enhanced
2.	Loss of Estate	15,000	16,500	Enhanced
3.	Loss of Consortium	80,000	88,000	Enhanced
4.	Funeral Expenses	15,000	16,500	Enhanced
	Total	16,22,000	25,40,200	Enhanced by Rs.9,18,200/-

11. With the above modification, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.16,22,000/- is hereby enhanced to Rs.25,40,200/-, 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 six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellants are permitted to withdraw the entire award amount now determined by this Court equally, along with proportionate interest and costs, less the



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amount already withdrawn, if any. The appellants are directed to pay the necessary Court fee, if any on the enhanced award amount. No costs.

28.08.2023

rst

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To:

1.The Chief Judge,
The Motor Vehicle Accident Tribunal,
Court of Small Causes,
Chennai.

2.The Section Officer,
VR Section,
High Court, Madras.



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SUNDER MOHAN, J.

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