



C.M.A.No.1476 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.1476 of 2022

1.G.Indirani
2.G.Tamilarasi
3.G.Ramkumar
4.Murugasen

... Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Divn I) Ltd.,
Railway Station New Road,
Kumbakonam – 612 001.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 praying to allow the appeal and enhance the compensation in M.C.O.P.No.2078 of 2013 dated 12.01.2015 on the file of the Motor Accident Claims Tribunal/(Principal District Judge) at Cuddalore.

For Appellants : M/s.Ramya V.Rao
For Respondent: Mr.M.Muralivinoth
for Mr.D.Venkatachalam

JUDGMENT

The appeal is filed by the claimants challenging the Award and Decree dated 12.01.2015, passed in M.C.O.P.No.2078 of 2013, on the



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file of the Motor Accident Claims Tribunal/Principal District Judge,
Cuddalore.

2. The brief facts leading to the appeal are that, on 26.05.2013, while the deceased Govindaraj was riding the moped bearing Registration No.TN-51-M-6573 from North to South direction on the extreme left hand side of main road at Thenpathi, the respondent's vehicle bearing Registration No.TN-68-N-0518 TNSTC Bus came in the opposite direction in a rash and negligent manner and hit against the deceased moped due to which the deceased was thrown out of the moped and crushed to death. According to the claimants, the deceased was 43 years old at the time of the accident and he was earning Rs.20,000/- per month as Plastic Goods Merchant. Therefore, the claimants who are the wife and children of the deceased Govindaraj filed the claim petition seeking Rs.25,00,000/- as compensation.

3. The respondent/Transport Corporation filed a detailed counter denying all the averments raised in the claim petition including negligence, liability and quantum.



4. Before the claims Tribunal, the wife of the deceased was examined as P.W.1 and one Srinivasan, eye witness, was examined as P.W.2. and Exs.P.1 to P.4 were filed on behalf of the claimants. The respondent examined R.W.1, the driver of the bus, but no documents were marked.

5. The claims Tribunal, on an assessment of the entire evidence on record, awarded a sum of Rs.6,64,000/- as compensation along with interest at the rate of 6% per annum. Not being satisfied with the compensation awarded by the claims Tribunal, the claimants have filed this appeal for enhancement of compensation.

6. The learned counsel for the appellants submitted that the assessment of the income by the tribunal at Rs.6,000/- per month was erroneous and unsustainable. The learned counsel further submitted that the Tribunal erred in not adding future prospects of 25% to the income. The learned counsel submitted that the award under other heads was also unsustainable. On these grounds, the learned counsel prayed that the appeal may be allowed.



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7. The learned counsel for the respondent submitted that the Award of the Tribunal was just, fair and reasonable and did not call for any interference in the appeal

8. I have heard both the learned counsels and perused the materials available on record.

9. It is seen that the accident took place on 26.05.2013, the deceased was aged about 43 years and was a plastic merchant at the time of the accident. The Tribunal, in the absence of any evidence on record, assessed the monthly income of the deceased at Rs.6,000/-. Considering the age of the deceased and the cost escalation for the year 2013, I am of the view that the notional income can be fixed at Rs.10,000/- per month. The learned counsel for the appellants is right in submitting that the appellants 2 and 3 are entitled to compensation for loss of love and affection at Rs.80,000/- (Rs.40,000x2). The appellants are further entitled to Rs.15,000/- each towards loss of estate and funeral expenses as laid down by the Hon'ble Supreme Court in the case of *National Insurance Ltd. Vs. Pranay Sethi* reported in 2017 (16) SCC 680. The award towards transport expenses is set aside.



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10. In view of the above discussion, the award of the Tribunal is modified as follows:

<i>S.No.</i>	<i>Various Heads</i>	<i>Award of the Tribunal</i>	<i>Award of this Court</i>
1.	Income	Rs.6,000/- per month	Rs.10,000/- per month
2.	25% of added for future prospects	-	Rs10,000 + Rs.2,500= Rs.12,500/-
3.	1/3 rd of deducted as personal expenses of the deceased	Rs.6,000/- – 2,000/-= Rs.4,000/-	Rs.12,500/- – Rs.4,167/- = Rs.8,333/-
4.	Compensation after multiplier of 13 is applied	Rs.4,000x12x13= Rs.6,24,000/-	Rs.8,333x12x13= Rs.12,99,948/-
5.	Loss of Income	Rs.6,24,000/-	Rs.12,99,948/-
6.	Loss of Consortium to first petitioner	Rs.10,000/-	Rs.40,000/-
7.	Loss of love and affection to 2 nd and 3 rd petitioners	Rs.10,000/-	Rs.80,000/- (Rs.40,000x2=80,000/-)
8.	Transport expenses	Rs.10,000/-	Nil
9.	Funeral Expenses	Rs.10,000/-	Rs.15,000/-
10.	Loss of Estate	Nil	Rs.15,000/-
Total Compensation		Rs.6,64,000/-	Rs.14,49,948/- enhanced amount Rs.14,49,948/- rounded off to Rs.14,50,000/-

11. The claimants are entitled for enhanced compensation of Rs.14,49,958/- which is rounded off to Rs.14,50,000/-.

12. The learned counsel for the respondent submits that 50% of the award amount was already deposited by the respondent/Corporation.



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13. It is further submitted by the learned counsel for the respondent that the appeal was filed with the delay of 2329 days and the delay was condoned by this Court on condition of forfeiture of interest for the delay period of 2329 days. It is therefore made clear that the claimants shall not be entitled to the interest for the delay period of 2329 days. It is submitted by the learned counsel for the respondent that appeal was restricted to Rs.5,00,000/-. Therefore, the appellants are directed to pay the deficit Court fee for the balance amount of Rs.2,86,000/-. Registry is directed not to draft the decree till the additional Court fee is paid.

14. In view of the above, the respondent is directed to deposit the enhanced compensation of Rs.14,50,000/- along with interest at the rate of 7.5% per annum less the amount already deposited within a period of eight (8) weeks from the date of receipt of a copy of this Judgment. It is made clear that the appellants are not entitled to interest for the delay period of 2369 days in preferring the appeal. The apportionment of compensation shall be as fixed by the Tribunal.



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15. In the result, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

15.06.2023

Lpp
Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No

To

- 1.The Motor Accident Claims Tribunal/(Principal District Judge)
Cuddalore.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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N.MALA.J.,

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