



WEB COPY



C.M.A.No.1161 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A.No.1161 of 2020

1. Selvi
2. Venkatesan
3. Valarmathi
(declared as Major and the first appellant
has discharged from the guardianship
vide court order dated 29.08.2019
in CMP.No.17465 of
2019 in CMA. SR.No95623/2019)

... Appellants

-VS-

Tamil Nadu State Corporation Ltd.,
Managing Director,
No.12, Ramakrishna Road,
Salem.

... Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to enhance the award against the judgment and decree dated 30.03.2012 in MCOP. No.662 of 2008 on the file of the Motor Accidents Claims Tribunal/Principal District Judge, Namakkal.

For Appellant : Mr.C.Thangaraju

For Respondent : Mr.Murali Vinodh
For Mr.D.Nitin



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J U D G M E N T

WEB COPY This appeal has been filed to enhance the award against the judgment and decree dated 30.03.2012 in MCOP. No.662 of 2008 on the file of the Motor Accidents Claims Tribunal/Principal District Judge, Namakkal.

2. It is the case of the appellant that on 24.01.2006 at about 11.30 AM the deceased Thambisangan was on duty as Conductor, in the TNSTC bus bearing Reg. No.TN 27 N 1605. when the passengers got down from the bus at Andagalur Gate stop, before the deceased got into the bus, the driver started the bus and when the deceased was trying to catch the bus, fell down from the bus and sustained fatal injuries. Therefore, the claimants, who are the dependents of the deceased, filed a claim petition claiming compensation before the Tribunal.

3. The Tribunal, considering the pleadings, oral and documentary evidence, awarded a sum of Rs.9,01,000/- to the claimants. Enhancement of the compensation, the appellants/claimants has filed the appeal before this Court.

4. The learned counsel for the appellant submitted that as per the dictum laid down by this Court and the Hon'ble Apex court, the future prospects



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awarded by the Tribunal is very low. For love and affection, the Tribunal has awarded only to the wife and the second and third respondents are the children, the Tribunal ought to have awarded the compensation to their children. The Tribunal has not awarded any amount for loss of estate and other heads awarded to the Tribunal is very meagre and the same has to be enhanced.

5. Per contra, the learned counsel for the respondent submitted that after considering the oral and documentary evidence, the Tribunal has awarded compensation for the death of the deceased, which is just and reasonable, which does not warrant any interference.

6. Heard the learned counsel for the appellants and the learned counsel for the respondent and also perused the materials available on record.

7. The facts of the case are not in dispute. The appellants are the claimants and the respondent is the Transport Corporation, where the deceased was working. The appellants have filed a claim petition before the Tribunal claiming compensation for the death of the deceased.

8. From the materials on record, it is seen that the driver has driven the



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bus in a rash and negligent manner and due to which, the accident had occurred.

9.As far as the quantum of compensation is concerned, at the time of the accident, the deceased was aged about 53 years, was working as a Conductor and the Tribunal has fixed the salary for a sum of Rs.11,350/- per month and calculated upto 58 years ($11,350/- \times 12 \times 5 = \text{Rs.}6,81,000/-$). As per the decisions rendered by the Hon'ble Supreme Court in the case of *Sarla Varma*, 11 multiplier has to be applied and 10% future prospects has to be fixed as per the decisions of the Hon'ble Supreme Court in the case of *Pranay Sethi*. and to be applied in this case is "11". For the said multiplier and income, the compensation worked out is Rs.10,56,000/- ($\text{Rs.}11,350/- \times 1/3 \times 11$ multiplier) towards loss of income. However, with regard to future prospects, no amount has been included by the Tribunal. Therefore, the future prospectus is worked at Rs.1,58,400/- (10%). The Tribunal awarded towards love and affection is at Rs.30,000/- and it has to be set aside. As per the catena of decisions rendered by the Hon'ble Apex court as well as this Court, the appellants are entitled to get each Rs.40,000/- in total, Rs. 1,20,000/- (3 persons X Rs. 40,000) to the wife and two children towards love and affection. This Court enhance the compensation towards funeral expenses at Rs.15,000/- which the appellants are



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entitled to. The amounts awarded towards loss of consortium is hereby removed and the other heads are just and reasonable and hence, the same are confirmed.

10. The amount of compensation of Rs.9,01,000/- is enhanced to Rs.15,69,400/- under the following heads :-

Sl.No.	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of salary	4,54,000	10,56,000
2	Future prospects	1,92,000	1,58,400
3	Medical exp.	2,05,000	2,05,000
4	Love and affection	30,000	(3 X 40,000)1,20,000
5	Loss of estate		15,000
6	Consortium	10,000	
7	Funeral exp.	10,000	15,000
	Total	9,01,000/-	15,69,400/-

11. In the result, this appeal is allowed. The respondent/Transport Corporation is directed to pay the modified compensation amount of Rs.15,69,400/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization, after deducting the amount if any already deposited within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the same on making proper application before the Tribunal. The apportionment of



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compensation between the claimants shall be as ordered by the Tribunal. No costs.

14.12.2023

Rli

Index: Yes/No

NCS : Yes/No

To

The Judge,
Motor Accidents Claims Tribunal/Principal District Judge,
Namakkal.



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M.DHANDAPANI, J.

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