



C.M.A.No.2165 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.09.2023

Coram

The Hon'ble Mr.Justice Sunder Mohan

C.M.A.No 2165 of 2023

1. K. Rajathi

2. R.K.Kannappan

..Appellants

3.

Vs.

1. Amulraj (Driver)

2. The Managing Director,

Tamil Nadu Transport Corporation Ltd.,

37, Mettupalayam Road, Coimbatore

having branch office at Sathyamangalam.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award passed in M.A.C.T.O.P.No.319 of 2019, on the file of the Motor Accident Claims Tribunal (Sub Court) Sathyamangalam, dated 06.07.2022.

For Appellants : M/s.P.T.Saleem Fathima

Respondent-1 : Dispensed with

For Respondent-2 : Mr.M.Murali Vinoth



WEB COPY



C.M.A.No.2165 of 2023

Judgement

This instant Civil Miscellaneous Appeal has been filed by the appellants/claimants challenging the award passed by the Motor Accident Claims Tribunal (hereinafter, referred to as 'the Tribunal') in M.A.C.T.O.P.No.319 of 2019 dated 06.07.2022.

2. The appellants filed the Claim Petition stating that on 27.07.2019, at 11.00 p.m., while the deceased was travelling as a Pillion rider in a two wheeler, bearing Regn. No.TN 38 CD 9292 on Mettupalayam to Kothagiri Road, near Check-Post, the driver of the bus, bearing Regn.No.TN 43 N 0725 belonging to the respondent/Corporation came in a rash and negligent manner and dashed against the two wheeler. Due the said accident, the deceased sustained fatal injuries and died on 30.07.2019. Therefore, the parents of the deceased filed the Claim Petition seeking a sum of Rs.20,00,000/- as compensation.



C.M.A.No.2165 of 2023

WEB COPY

3. The respondent-Transport Corporation filed a counter statement denying all the averments made in the Claim Petition and stated that the accident occurred due to the negligence of the rider of the two wheeler; that they are not liable to pay compensation; and that in any case, the compensation claimed is excessive and prayed for dismissal of the claim petition.

4. Before the Tribunal the father of the deceased examined himself as P.W.1 and apart from two others as P.W.2 and P.W.3 and marked 25 documents as Exs.P.1 to P.25. On the side of the respondent-Transport Corporation one witness was examined as R.W.2 however, no documents were marked. Ex.X.1 is marked as Court document.

5. The Tribunal after considering the oral and documentary evidence held that the accident occurred due to rash and negligence on the part of the bus driver, and hence, directed the



C.M.A.No.2165 of 2023

respondent/Transport Corporation to pay a compensation of Rs.24,62,350/- 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. M/s.P.T.Saleem Fathima, learned counsel appearing for the appellants submitted that the accident took place in the year, 2019 and the deceased was a Diploma holder in Electrical and Electronic Engineering (EEE), however, the Tribunal irrespective of said Educational qualification, based on Ex.P.13, the salary obtained by the deceased while he worked as an apprentice in a Private Concern fixed the notional monthly income of the deceased only at Rs.15,000/- which is meagre. The learned counsel contended that considering the educational qualification, the Tribunal ought to have fixed higher notional income of the deceased. The learned counsel



C.M.A.No.2165 of 2023

WEB COPY

also submitted that no compensation was awarded under the head, 'Transportation' and hence, prayed for appropriate enhancement.

8. Since the first respondent, driver of the bus remained ex parte before the Tribunal, the learned counsel made an endorsement to dispense with notice to first respondent. Hence, notice to first respondent is dispensed with.

9. Mr.M.Murali Vinoth, learned counsel for the second respondent-Transport Corporation per contra submitted that the Tribunal based on the claim made by the appellants passed an award, which is just and reasonable and the same need not be interfered with by this Court.

10. Heard the learned counsel appearing for the appellants as well as the second respondent and perused the materials on record.



C.M.A.No.2165 of 2023

WEB COPY

11. 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.

12 (a). On perusal of the records, it is seen that the appellants had marked 10th Standard mark sheet of the deceased as Ex.P.16, Diploma Completion Certificate as Ex.P.17, and College Transfer Certificate as Ex.P.18 to prove the educational qualifications of the deceased. The appellants also filed Ex.P.13, Salary Bill, to prove the income of the deceased and on perusal of the same it seen that even before completion of Diploma Degree in EEE, the deceased was employed as an apprentice in a Private concern, where, he was drawing a sum of Rs.15,000/- per month. Therefore, the Tribunal has fixed Rs.15,000/- as notional monthly income of the deceased. However, this Court is of the view that considering the educational qualification of the deceased, his age and year of the accident, it would be just and reasonable to fix notional monthly income of the



C.M.A.No.2165 of 2023

WEB COPY

deceased at Rs.18,000/- Thus, the award of compensation under the head, 'Loss of Dependency " has to be assessed as follows:-

$$\begin{aligned} & \text{Rs.18,000/- (monthly income)+ Rs.7,200/- (40\% future prospects)} \\ & \times 12 \times 18 \text{ (multiplier)} \times 1/2 \text{ (50\% deduction towards personal expenses)} \\ & = \text{Rs.27,21,600/-}. \end{aligned}$$

12 (b). Therefore, the award of the Tribunal under the head, 'Loss of Dependency at Rs. 22,68,000/- is modified and enhanced to Rs.27,12,600/-

12(c). Further, the Tribunal has not awarded any compensation towards 'Transportation' hence, the same is awarded at Rs.15,000/-. Insofar as the award of compensation under other heads are concerned, the same is hereby confirmed.



C.M.A.No.2165 of 2023

WEB COPY

13. Hence, the appellants are entitled to the compensation, which is modified as follows:-

<i>Sl. No .</i>	<i>Head</i>	<i>Tribunal Award in Rs.</i>	<i>High Court Award in Rs.</i>	<i>Confirmed/ Granted/enhanced</i>
1	Loss of Dependency	22,68,000/-	27,21,600	Enhanced
2	Loss of Estate	15,000/-	15,000/-	Confirmed
3	Funeral Expenses	15,000/-	15,000/-	Confirmed
4	Medical Bill	84,350/-	84,350/-	Confirmed
5	Loss of Consortium (Rs.40,000/- each	80,000/-	80,000/-	Confirmed
7	Transportation	Nil	15000/-	Granted
	Total	Rs.24,62,350/-	Rs.29,15,950/-	Enhanced

14. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.24,62,350/- is hereby modified and enhanced to Rs.29,15,950/- together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of



C.M.A.No.2165 of 2023

WEB COPY

deposit. The second 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 their share of award amount now determined by this Court as per the apportionment made by the Tribunal along with interest and costs, less the amount if any, already withdrawn by making appropriate application before the Tribunal. However, it is made clear that the appellants are not entitled to the interest for the delayed period of 241 days in preferring the Appeal, as already observed by this Court, in its order, dated 28.08.2023, in C.M.P.No.18534 of 2023 in C.M.A.Sr.No.102778 of 2023. The appellants are directed to pay the necessary Court fee, if any, on the enhanced award amount. No costs.

20.09.2023

sd
INDEX ;yes/no

9/11



WEB COPY



C.M.A.No.2165 of 2023

To

The learned Sub Judge,
Motor Accident Claims Tribunal,
Sathyamangalam.



WEB COPY



C.M.A.No.2165 of 2023

Sunder Mohan,J.,

sd

C.M.A.No 2165 of 2023

20.09.2023f