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C.M.A.No.1366 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1366 of 2017

And

C.M.P.No.7582 of 2017

And

Cross Objection No.78 of 2023

C.M.A.No.1366 of 2017:

The Managing Director
Metropolitan Transport Corporation Ltd.,
Chennai – 600 002.

... Appellant

Vs.

1.Navanitham
2.Bhavani
3.Priya

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 22.01.2014 passed in M.C.O.P.No.427 of 2009 by the learned I Additional District Judge, Motor Accident Claims Tribunal, Thiruvallur and dismiss the petition by allowing the above CMA.

For Appellant : Mr.S.S.Swaminathan
For Respondents : M/s.Ramya V.Rao for R1 and R2
R3 – No Appearance



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Cross Objection No.78 of 2023:

1.Navanitham
2.Bhavani

... Cross Objectors

Vs.

1.The Managing Director
Metropolitan Transport Corporation Ltd.,
Anna Salai,
Chennai – 600 002.

2.Priya

... Respondents

Prayer:

Cross Objection filed under Order 41 Rule 22 of Civil Procedure Code, against the judgment and decree dated 22.01.2014 in M.C.O.P. No.427 of 2009 on the file of the I Additional District Court, Motor Accident Claims Tribunal at Thiruvallur.

For Cross Objectors : M/s.Ramya V.Rao
For Respondents : Mr.S.S.Swaminathan for R1

COMMON JUDGMENT

The civil miscellaneous appeal as well as the cross objection have been filed against the judgment and decree dated 22.01.2014 in M.C.O.P.No.427 of 2009 on the file of the I Additional District Court, Motor Accident Claims Tribunal, Thiruvallur.

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2.The respondent before the Motor Accident Claims Tribunal is the appellant in the civil miscellaneous appeal and the petitioners 1 and 2 before the Motor Accident Claims Tribunal are the cross objectors in the cross objection.

3.The brief facts of the case is that on 12.11.2008 at about 18.30 hours, the deceased V.Parthasarathy was waiting in the Ambattur Estate Bus Terminal for the bus and at that time, a bus bearing Registration No.TN 01 N 5380 belonging to the Metropolitan Transport Corporation came in the bus terminal and the deceased tried to get into the bus, however, the driver of the bus without noticing the passengers, drove the bus in a rash and negligent manner, due to which the deceased fell down and got into the wheels of the bus and died on the spot.

4.Thereafter, the dependants of the deceased V.Parthasarathy/ respondents in the civil miscellaneous appeal/ cross objectors and second respondent in cross objection (hereinafter referred to as 'claimants') filed claim petition before the Principal District Court, Tiruvallur, claiming compensation of Rs.15 Lakhs. Thereafter, the said



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case was transferred to the I Additional District Court, Motor Accident Claims Tribunal, Thiruvallur, as per the proceedings of the Principal District Judge, Tiruvallur in D.No.2366/A/2009 dated 26.06.2009.

5.After adjudication, the I Additional District Court, Motor Accident Claims Tribunal, Thiruvallur, awarded a sum of Rs.8,43,000/- as compensation to the claimants and directed the Metropolitan Transport Corporation to pay the compensation amount with interest at the rate of 9% p.a. from the date of petition till realization with costs.

6.The learned counsel appearing for the Metropolitan Transport Corporation submitted that on 12.11.2008 at about 18.30 hours, the deceased V.Parthasarathy was waiting in the Ambattur Estate Bus Terminal for the bus and at that time, a bus bearing Registration No.TN 01 N 5380 belonging to the Metropolitan Transport Corporation came in the bus terminal and the deceased tried to get into the bus hurriedly, due to which, the accident happened. Further, the criminal case registered against the driver of the Metropolitan Transport Corporation bus ended in acquittal. Hence, this Court may fix some



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negligence on the part of the deceased. The learned counsel further submitted that the compensation awarded by the Tribunal is also highly excessive and the Tribunal has awarded 9% interest instead of 7.5%, which is also onerous.

7.Per contra, the learned counsel appearing for the Cross Objectors submitted that the deceased was aged 58 years at the time of death and was working as Selection Grade Accountant in TNEB. On the fateful day, he was waiting in the Ambattur Estate Bus Terminal for the bus and at that time, a bus bearing Registration No.TN 01 N 5380 belonging to the Metropolitan Transport Corporation came in the bus terminal and the deceased tried to get into the bus, however, the driver of the bus without noticing the passengers, drove the bus in a rash and negligent manner, due to which, the deceased fell down and got into the wheels of the bus and died on the spot. Hence, after elaborately discussing the factual aspects, the Tribunal fixed the entire liability on the part of the Transport Corporation.

8.The learned counsel appearing for the Cross Objectors further submitted that the claimants proved the employment of the deceased.



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The correct multiplier applicable in the present case is 9, however, the Tribunal adopted multiplier 8, which is not sustainable. Further, the Tribunal has not awarded any amount towards future prospects and the amount awarded towards love and affection and towards consortium to the first claimant are also very meagre.

9.Heard the learned counsel appearing for the Metropolitan Transport Corporation as well as the learned counsel appearing for the Cross Objectors and perused the materials available on record.

10.Admittedly, on 12.11.2008 at about 18.30 hours, the deceased was waiting in the Ambattur Estate Bus Terminal for the bus and at that time, a bus bearing Registration No.TN 01 N 5380 belonging to the Metropolitan Transport Corporation came in the bus terminal and the deceased tried to get into the bus, however, the driver of the bus without noticing the passengers, drove the bus in a rash and negligent manner, due to which, the deceased fell down and got into the wheels of the bus and died on the spot.

11.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.7,78,101/- for loss of income, Rs.25,000/- for



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funeral expenses, Rs.30,000/- for love and affection and dependency, Rs.10,000/- for consortium to the first claimant and arrived at a total compensation of Rs.8,43,101/- rounded off to Rs.8,43,000/- with interest at the rate of 9% p.a. from the date of petition till realization.

12.As rightly pointed out by the learned counsel appearing for the Cross Objectors, the deceased was aged 58 years at the time of death and hence the correct multiplier to be adopted is 9. Adopting multiplier 9, the actual loss of income to the claimants comes to Rs.7,781/- X 12 X 9 = Rs.8,40,348/-. This Court is of the opinion that some amount has to be awarded for future prospects and for loss of estate. Accordingly, this Court awards 10% of actual loss of income for future prospects, which comes to Rs.84,000/- [10% of Rs.8,40,348/- = Rs.84,034.8 rounded off to Rs.84,000/-] and a sum of Rs.15,000/- for loss of estate. The amount awarded under the heads love and affection and dependency and consortium to the first claimant are also low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for love and affection and dependency is enhanced to Rs.90,000/- from Rs.30,000/- and the amount awarded for consortium to the first claimant is enhanced to Rs.30,000/- from Rs.10,000/-, however, the



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amount awarded for funeral expenses, in the opinion of this Court is high and the same is reduced to Rs.15,000/- from Rs.25,000/-. The interest of 9% awarded by the Tribunal, in the opinion of this Court is high and hence, this Court is inclined to reduce the interest and accordingly the same is reduced to 7.5% p.a. from 9% p.a.

13. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs.7,78,101/-	Rs.8,40,348/-
2.	Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-
3.	Love and affection and dependency	Rs. 30,000/-	Rs. 90,000/-
4.	Consortium to the first claimant	Rs. 10,000/-	Rs. 30,000/-
5.	Loss of estate	---	Rs. 15,000/-
6.	Future prospects	---	Rs. 84,000/-
	Total	Rs.8,43,101/-	Rs.10,74,348/-

14. The claimants are entitled to total compensation of Rs.10,74,348/-, out of which, the first claimant/ first petitioner in the claim petition is entitled to a sum of Rs.5,74,348/- and the claimants 2 and 3/ petitioners 2 and 3 in the claim petition are entitled to a sum of Rs.2,50,000/- each. The Metropolitan Transport Corporation shall



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deposit the modified/ enhanced award amount with interest at the rate of 7.5% p.a. from the date of petition till realization with costs.

15.The civil miscellaneous appeal stands dismissed and the cross objection stands partly allowed. The decree and judgment dated 22.01.2014 passed in M.C.O.P.No.427 of 2009 by the I Additional District Court, Motor Accident Claims Tribunal, Thiruvallur, is modified to the above extent.

16.The Metropolitan Transport Corporation is directed to deposit the modified/ enhanced award amount before the I Additional District Court, Motor Accident Claims Tribunal, Thiruvallur, within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the claimants/ respondents in the civil miscellaneous petition/ cross objectors and second respondent in the cross objection are permitted to withdraw their respective shares as apportioned by this Court, along with accrued interest and proportionate costs, on making proper and necessary application before the I Additional District Court, Motor Accident Claims Tribunal, Thiruvallur. The cross objectors are not



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entitled to any interest for the period of delay, if any, in filing the cross objection. The cross objectors are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The I Additional District Court, Motor Accident Claims Tribunal, Thiruvallur, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the cross objectors.

17.The civil miscellaneous appeal is dismissed. The cross objection is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

12.10.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The I Additional District Court,
Motor Accident Claims Tribunal,
Thiruvallur.



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M.DHANDAPANI,J.
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