



C.M.A.No.2836 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2836 of 2022

1.S.Deivakanni
2.Minor Ram Mohan
3.Minor Ramani
(Minor appellants 2&3 rep.by their mother and Natural
Guardian S.Deivakanni 1st appellant herein)

... Appellants

vs.

The Branch Manager,
Tamil Nadu State Transport Corporation (Villupuram Divn-1)Ltd.
3/137, Salamedu, Vazhuthareddy post, Villupuram – 607 302.

...Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.2508 of 2016 dated 21.04.2022 on the file of the Motor Accident Claims Tribunal / Special Sub Judge (FAC), Cuddalore.

For Appellants :Mrs.Ramya V.Rao

For Respondent :Mr.S.S.Santhosa Kumar

J U D G M E N T



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The legal heirs of the deceased Saravanan who are the claim petitioners have preferred this appeal for an enhancement of compensation.

2. For the sake of convenience, the parties are referred to as per the ranking before the Tribunal.

3. The factum of the accident, the manner of the accident and rash and negligence driving on the part of the driver of the offending vehicle, are not disputed and hence the findings rendered by the Tribunal are hereby confirmed.

4. The first claim petitioner is the wife of the deceased Saravanan and the petitioners 2 and 3 are the children of the deceased Saravanan. They have preferred the present appeal seeking an enhancement of an award especially under the head of Loss of Dependency.

5. In the trial, Exhibits P1 to P13 were marked. P.W.1 was examined. On behalf of the respondents, no documentary evidence was adduced. Ex.C1 is marked as Court exhibit.

6. On consideration of both oral and documentary evidence, the Tribunal has awarded a sum of Rs.23,51,000/- as a total compensation.

7. At the time of the accident, the deceased was working as a Mason and hence the notional income has to be now fixed considering



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the facts. On the date of the accident, the deceased was aged about 30 years and hence, as contended by the learned counsel for the appellants, the proposition laid down by the Hon'ble Supreme Court in Pranay Sethi case, reported in National Insurance Company Limited Vs. Pranay Sethi and others (S.L.P.(Civil) No.25590 of 2014, dated 31.10.2017) (Reported in 2017 (16) SCC 680 has to be applied.

8. The date of the accident is 20.04.2016. The Tribunal has fixed the notional income as Rs.10,000/-. Since the accident occurred on 20.04.2016, a sum of Rs.14,000/- is hereby fixed as a monthly income of the deceased. The Tribunal has fixed the Future prospects at 40% and the same is hereby confirmed. Following the ratio laid down by the Constitution Bench's judgment of the Honourable Apex Court in the case of Pranay Sethi (supra), accordingly, the calculation is made as below:

$$(14,000 \times (14,000 \times 40\%) \times 17 \frac{1}{4} \times 12 = 29,98,800/-)$$

9. The award granted under the other heads by the Tribunal is hereby confirmed.

10.The award of the Tribunal below is modified as follows:



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S. No.	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1.	Loss of dependency	Rs.21,42,000/-	Rs.29,98,800/-
2.	Loss of Consortium	Rs. 1,76,000/-	Rs. 1,76,000/-
3.	Loss of Estate	Rs. 16,500/-	Rs. 16,500/-
4.	Funeral expenses	Rs. 16,500/-	Rs. 16,500/-
	Total	Rs. 23,51,000/-	Rs.32,07,800/-

11. In total, the claim Petitioners are entitled to a sum of Rs.32,07,800/- (Rupees Thirty two lakhs seven thousand and eight hundred only) with interest at the rate of 7.5% per annum from the date of Petition till the date of realisation.

12. The Tribunal has granted a sum of Rs.6,00,000/- to the 1st petitioner. The said sum is enhanced to a sum of Rs.10,00,000/-. Likewise, a sum of Rs.7,50,000/- granted to the 2nd and 3rd petitioners, is enhanced to a sum of Rs.9,28,900/-, each. The mother of the deceased, who was arrayed as the 3rd respondent in the claim petition was granted a sum of Rs.2,51,000/-, which sum is enhanced to a sum of Rs.3,50,000/-. In all other aspects, the award of the Tribunal remains intact.

13. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed,



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enhancing the award amount **from Rs.23,51,000/- to Rs.32,07,800/-** to the extent indicated above. No Costs.

(ii) the Respondent/Transport Corporation is directed to deposit the award amount of Rs.32,07,800/-, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) On such deposit, the claimants are permitted to withdraw their respective share of the award amount, less the amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) The share of the minor claimants, namely, the claimants 2 and 3 is directed to be deposited in Fixed Deposit in any one of the Nationalised Banks till they attain majority. On such deposit, the 1st claimant being the mother of the minor claimants, namely, the 2nd and 3rd claimants is permitted to withdraw the accrued interest once in every three months for the welfare of the minor claimants.

(v) The appellants/claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is



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directed to draft the decree only after the receipt of Court fee.

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

1. The Motor Accident Claims Tribunal,
Special Sub Judge (FAC), Cuddalore.

2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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RMT.TEEKAA RAMAN, J.,

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Judgment in
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