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CMA No. 375 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 375 of 2023

1.A.S. Vanitharani

2.N. Maharajan

3.M.Monicarani

... Appellants

Versus

The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
Registered and Administrative Office,
No.12, Ramakrishna Road,
Salem – 636 007.

... 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. 2593 of 2016 dated 19.02.2019 on the file of the Motor Accidents
Claims Tribunal, II Additional District Judge, Salem.

For Appellants : Mr. S.P. Yuaraj.

For Respondent : Mr. D. Nitin.

J U D G M E N T

The claimants have preferred the instant appeal seeking
enhancement of compensation in the award passed by the Tribunal in
M.C.O.P. No.2593 of 2016 dated 19.02.2019.



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2.The claimants / appellants have filed claim petition stating that on 04.11.2014 at about 07.15 p.m., while the deceased was riding his two wheeler in a public road, the driver of the bus belonging to the respondent corporation came in a rash and negligent manner and hit against the vehicle of the deceased as a result of which, the deceased sustained fatal injuries.

3.The respondent remained ex parte before the Tribunal.

4.The appellants examined PW1 and PW2 and marked Ex.P.1 to Ex.P.17. The respondent neither examined any witness nor marked any document. Further, Ex.X.1 has also been marked.

5.The Tribunal after taking into consideration the oral and documentary evidence held that the accident took place due to the negligence of the driver of the bus belonging to the respondent and directed the respondent to pay a compensation of Rs.13,15,200/-.

6.The learned counsel for the appellants submitted that though the appellants had established that the deceased was working in a Courier company as a delivery boy, the Tribunal fixed a meagre notional income of Rs.9,000/- and hence, prayed for enhancement of compensation.



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7. The learned counsel for the respondent, per contra, submitted that the compensation awarded by the Tribunal is just and reasonable and no interference is called for.

8. The only question that arises for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

9. On perusal of the records, it is seen that the appellants examined PW1, mother of the deceased to show that the deceased was working as a delivery boy in a Courier company. Considering the age of the deceased, his avocation and the year of the accident, this Court is of the view that it would be just and reasonable to fix Rs.12,000/- per month as notional income. Since the deceased was aged 29 years at the time of accident, the appellants are entitled to 40% enhancement towards future prospects and the multiplier applicable is 17. Since the deceased died as a bachelor, 50% has to be deducted towards personal expenses. Therefore, the compensation under the head Loss of income would be $\text{Rs.}12,000 + \text{Rs.}4,800/- \text{ (40\% of 12,000) = Rs.}16,800 \times 12 \times 17 \times 1/2 = \text{Rs.}17,13,600/-$. The appellants 1 and 2 are each entitled to Rs.40,000/- under the head loss of filial consortium and thus, Rs.80,000/- is awarded under the said head. Since no amount has been awarded towards transport expenses,



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Rs.5,000/- is awarded under the said head. The award under the other heads are

just and the same are confirmed. Thus, the compensation awarded by the

Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	12,85,200	17,13,600	Enhanced
2.	Loss of filial consortium	---	80,000	Granted
3.	Transport expenses	---	5,000	Granted
4.	Funeral Expenses	15,000	15,000	Confirmed
5.	Loss of estate	15,000	15,000	Confirmed
	Total	13,15,200	18,28,600	Enhanced by Rs.5,13,400/-

10. With the above modification, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.13,15,200/- is hereby enhanced to Rs.18,28,600/-, together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The 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 eight (8) weeks from the date of a



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receipt of copy of this Judgment. On such deposit, the first and second appellants are permitted to withdraw Rs.8,14,300/- each and the third appellant is permitted to withdraw Rs.2,00,000/-, along with proportionate interest and costs, less the amount already withdrawn, if any. The appellants are directed to pay the necessary Court fee, if any on the enhanced award amount. No costs.

29.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Motor Accidents Claims Tribunal
II Additional District Judge, Salem.

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



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SUNDER MOHAN, J

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