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C.M.A Nos.2695 and 2693 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.Nos.2695 and 2693 of 2023
and C.M.P.Nos.24945 and 24950 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram

... Appellant in both C.M.As

Versus

1.Barinal Meri
2.Minor Jacob
3.Minor Mariyammal

(Minors represented by her
Guardian mother, Barinal Meri)

4.Anthony Ammal
5.Jonas Meri
6.Ambrose
7.Rubina
8.Anthonysami
9.Minor Arokiyasami
10.Minor Sagayameri

(Minors represented by their
Guardian mother, Anthony Ammal)

... Respondents in C.M.A.No.2695 of 2023

1.Anthony Ammal
2.Jonas Meri
3.Ambrose
4.Rubina



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5. Anthonysami
6. Minor Arokiyasami
7. Minor Sagayameri

(Minors represented by their
Guardian mother, Anthony Ammal)

8. Barinal Meri
9. Minor Jacob
10. Minor Mariyammal

(Minors represented by her
Guardian mother, Barinal Meri)

..Respondents in C.M.A.No.2693 of 2023

Prayer in C.M.A.No.2695 of 2023: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking to set aside the decree and judgment dated 15.06.2016 made in M.C.O.P.No.1 of 2016 on the file of the Special Motor Accident Claims Tribunal, Tiruvannamalai.

Prayer in C.M.A.No.2693 of 2023: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking to set aside the decree and judgment dated 15.06.2016 made in M.C.O.P.No.2 of 2016 on the file of the Special Motor Accident Claims Tribunal, Tiruvannamalai.

In both C.M.As

For Appellant : Mr.K.J.Sivakumar

For Respondents : Ms.Sunitha Abirami
for Ms.M.Malar



COMMON JUDGMENT

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In a road accident involving a two-wheeler driven by a certain Michael and a bus bearing No.TN 32 N 0498 belonging to the appellant / State Transport Corporation that took place on 27.09.1999, Michael was killed. He was aged 50 years and was married twice, even when the first spouse was very much alive. Out of both these women, Michael fathered as many as 8 children, of whom four were minors at the time when the accident took place.

2. Seeking compensation, both the families that Michael maintained moved the Special Motor Accident Claims Tribunal, Thiruvannamalai with separate petitions. Both the petitions were tried together and were disposed of via a common order. Michael was stated to be a mason, and the Tribunal had fixed his monthly income notionally at Rs. 4,000/-, applied 13 as multiplier, and deducted 1/5 towards his personal expenditure (since he maintained a large family of 10 members), and arrived at Rs.4,99,200/- towards 'loss of dependency'. In total, it arrived at a total compensation of Rs.10,79,200/-, and the breakup is as follows:



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Sl.No.	Head	Amount awarded by the Tribunal
1.	Loss of income	Rs.4,99,200/-
2.	For the first petitioner in MCOP.No.2 of 2016, loss of consortium	Rs.1,00,000/-
3.	For petitioners 2 and 3 in MCOP.No.1 of 2016 and petitioners 6 and 7 in MCOP.No.2 of 2016, Rs.1 Lakh each for loss of love and affection caused by the loss of their father	Rs.4,00,000/-
4.	For petitioners 2 to 5 in MCOP.No.2 of 2016, Rs.15,000/- each for the loss of love and affection caused by the loss of their father	Rs.60,000/-
5.	For the first petitioner in MCOP.No.1 of 2016, as a dependent of the deceased	Rs.10,000/-
6.	Funeral expenses	Rs.10,000/-
	Total	Rs.10,79,200/-

3. Aggrieved by the compensation awarded under the heads 'loss of love and affection' or 'loss of consortium' as the case may be of the petitioners, the transport Corporation has come forward with these appeals.

4. Mr. J. Sivakumar, the learned counsel for the appellant submitted that whereas the permissible limit for awarding compensation under the head 'loss of consortium' and 'loss of love and affection' is Rs. 40,000/-, the Tribunal had granted Rs.1 Lakh for the first claimant / first wife of the



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victim in MCOP.No.2 of 2016, and for each of the 4 minor children of the victim, it had again awarded Rs.1 Lakh each.

4.Per contra, Ms.Sunitha Abirami, the learned counsel for the claimants / respondents, submitted that the tribunal has not awarded anything towards the future prospects of the victim. She also added that compensation for those children of the victim who had attained majority, for loss of love and affection, the Tribunal had granted only Rs.15,000/- each.

5.There is merit on both sides, and therefore, this Court is concerned to rework the compensation payable consistent with a parameter set out by the dictums of the Hon'ble Supreme Court. This Court affirms the notional income of Rs. 4,000/- as fixed by the Tribunal. Since there is no dispute that the victim was aged 50 years, this Court adds another 25% towards his future prospectus, applies 13 as a multiplier and deducts 1/5 towards personal expenditure of the victim and arrive at the net value of loss of dependency at Rs.6,24,000/-. As far as other conventional heads are concerned, loss of consortium for the first petitioner in both MCOP.Nos.1 and 2 of 2016 is fixed at Rs.40,000/- each, which amounts



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to Rs.80,000/-. Loss of love and affection for all the children is fixed at Rs.40,000/- each, which amounts to Rs.3,20,000/-, and Rs.25,000/- is fixed towards funeral expenses. In all, the total compensation payable arrives at Rs.10,49,200/-. However, when compared with the award passed by the Tribunal, the difference will be only Rs.30,000/-, and this Court does not consider it necessary to tinker with this amount.

6.To conclude, this Court finds that there is no need to interfere with the awards of the Tribunal, and the same is hereby confirmed.

7.The Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

20.11.2023

Anu

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Special Motor Accident Claims Tribunal, Tiruvannamalai.



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N.SESHASAYEE, J.

Anu

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