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CMA No.76 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2023

PRONOUNCED ON : 23.02.2023

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

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U.Raja (died)

1. Shanthi

2. Dhanasekaran

(impleaded as per order
in M.P.No.165/18)

.. Appellants/petitioners

Vs.

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

.. Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award dated 05.07.2022 passed in MCOP No.4477 of 2014 on the file of the Motor Accident Claims Tribunal [IV Court of Small Causes], Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondent : Mr.Murali Vinodh



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JUDGMENT

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Appellants are the legal representatives of the deceased claim petitioner.

2. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.

3. Injured Raja filed claim petition in MCOP No.4477 of 2014 before the Motor Accident Claims Tribunal (IV Court of Small Causes), Chennai, seeking compensation for the injury sustained by him in the road transport accident on 15.05.2014. Pending trial, he died and his legal representatives/appellants herein are brought on record.

4. During the trial, the widow of the deceased was examined as PW1, Medical Record Technician, was examined as PW2 and Dr.Saravanabhavanantham, was examined as PW3. Exhibits viz., Ex.P1 to Ex.P13 were marked. On the side of the respondent, no oral or documentary evidence has been produced.

5. Based upon the oral and documentary evidence, the tribunal has



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come to the conclusion that the accident has taken place due to the rash and negligent driving on the part of the driver of the respondent/Transport corporation. In the absence of any challenge to the said finding, the same is hereby confirmed.

6. After death of the claim petitioner, the legal representatives are brought on record and they have filed necessary application. As per the pleadings, it is claimed that due to the accidental injuries sustained on 15.05.2014, the injured claim petitioner died on 27.04.2017.

7. As per Ex.P1 is the copy of the First Information Report, on 15.05.2014, the deceased suffered injuries in the motor accident. Thereafter, the deceased has taken treatment as inpatient from 15.05.2014 to 26.05.2014 i.e. 12 days in Government Stanley Hospital as per Discharge Summary Ex.P3 and diagnosed with left temporal and parietal small contusion nuro thmoid complex fracture pneumocephle on right Galaegie fracture. It could be seen from Death Certificate Ex.P4, that the injured Raja died on 27.04.2017.

8. After going through the evidence of PW3-



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Dr.Saravanabhavanantham, this Court finds that the claim petitioners did not examine the doctor who treated the deceased. As per Ex.P3-Discharge Summary, after the accident, the original claim petitioner (now deceased) was admitted in Government Stanley Hospital on 15.05.2015 and it is also seen that on diagnosis he sustained injuries on left temporal and parietal small contusion, nasal ethmoid complex, Pneumoencephalous right, after treatment, he was discharged on 15.05.2015. It leads to presume, he is recovered from his injuries. In course of treatment he does not underwent any surgery and it seems the injuries are minor in nature. Claim petitioners did not produce medical record to show that the deceased was under continuous medical treatment for the injuries sustained.

9. At this juncture, it remains to be stated that the claim petitioners in support of their claim also filed Ex.P12 viz., Treatment Records of the deceased, wherein the Doctor, who gave treatment has recorded the statement given by the original claim petitioner, that the deceased was a chronic smoker and it is also found that he died due to respiratory failure.

10. As per initial treatment records and Ex.P3-Discharge summary,



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the original Claim petitioner had sustained mild head injury, whereas as per Ex.P12-Treatment records of the deceased of the year 2014-17, he died due to respiratory failure. The date of the accident and the date of the death are 2 ½ years apart. Absolutely, there is no medical evidence to give nexus between the injuries sustained in the road transport accident on 15.05.2014 and cause of death on 27.04.2017.

11. Further, it remains to be stated that PW3-Doctor has fairly admitted in the cross examination that he has not given any treatment to the deceased and hence, the tribunal has rightly come to the conclusion that the claim petitioners have not demonstrated before the tribunal that the injured died due to the accidental injuries and accordingly, treated the claim petition as that of one claiming compensation for the injuries.

12. Based upon the documents produced before the tribunal, narrated supra, this Court finds that the finding rendered by the tribunal does not suffer from any irregularity or illegality at this appellate stage and hence, the said finding of the tribunal is hereby confirmed.

13. However, perusal of the award shows that the claims tribunal



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has awarded a meagre sum of Rs.35,000/- to the claim petitioners i.e. Rs.5,000/- towards attender charges, Rs.15,000/- each towards extra nourishment and Transportation charges.

14. For the injuries sustained, the original claim petitioner, has taken treatment as in-patient in Government Stanley Hospital, from 15.05.2014 to 26.05.2014 i.e. for 12 days. Therefore, while sustaining the award of Rs.15,000/- each towards, extra nourishment and transportation charges, this Court is of the view that Rs.5,000/- awarded towards attender charges, needs to be enhanced to Rs.10,000/-. Further, this Court deems it fit to award Rs.10,000/- towards loss of partial income during the period of treatment i.e. one month and as could be seen from Ex.P2-Accident register, a sum of Rs.15,000/- could be awarded for injuries. Hence, the compensation is enhanced from Rs.35,000/- to Rs.65,000/- as detailed hereunder.

For Injuries	– Rs.15,000/-
Loss of income during the period of treatment	- Rs.10,000/-
Attender Charges	- Rs.10,000/-
Extra Nourishment	- Rs.15,000/-
Transportation expenses	<u>- Rs.15,000/-</u>
Total	<u>- Rs.65,000/-</u>



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Award of Tribunal - Rs.35,000/-
now enhanced - **Rs.30,000/-**

15. In the result, it is ordered as follows:

- (i) The judgment and decree dated 05.07.2022, made in MCOP No.4477 of 2014 on the file of the Motor Accident Claims Tribunal [IV Court of Small Causes], Chennai, stands modified to the limited extent that the compensation of Rs.35,000/- awarded by the claims tribunal is enhanced to Rs.65,000/- i.e. and the interest awarded by the claims tribunal remains unaltered.
- (ii) Additional Court fee, if any, to be paid by the claim petitioners within a period of four weeks and decree to be drafted after the payment of Court fee.
- (iii) The respondent-Transport Corporation is directed to deposit the enhanced compensation amount of Rs.65,000/- with proportionate interest and costs to the credit of MCOP No.4477 of 2014 on the file of the Motor Accident Claims Tribunal [IV Court of Small Causes], Chennai, within a period of four weeks from the date of receipt of a copy of this order, less the amount already deposited, if any.
- (iv) On such deposit, the appellants/claim petitioners, are permitted



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to withdraw the same, on making necessary applications.

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16. With the above directions, the Civil Miscellaneous Appeal stands partly allowed. No Costs.

23.02.2023

Index : Yes/No

Neutral Citation : Yes/No.

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To

The IV Judge,
Court of Small Causes,
Motor Accident Claims Tribunal, Chennai.



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RMT.TEEKAA RAMAN,J.,

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Pre-delivery Judgment in
CMA No.76 of 2023

23.02.2023