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C.M.A.No.2928 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.02.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2928 of 2022

1.A.Selvi
2.A.Karthick (minor)
3.A.Bhuvaneswari (minor)
(Minor Petitioners 2 & 3 are represented by
their Mother and natural guardian A.Selvi)
4.A.Pattambal

All are residing at No.2/548, 4th Street,
Vanathurai Kudiyeruppu,
Perambakkam,
Chennai 600 100.

... Appellants

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Salai, Chennai 600 003.

... Respondent

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 28.10.2013 in MCOP.No.2320 of 2011 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellants : Ms.Ramya V. Rao

For Respondent : Mr.M.Murali Vinoth



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JUDGMENT

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The Appeal has been filed against the Judgment and Decree dated 28.10.2013 made in MCOP.No.2320 of 2011 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.2320 of 2011 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The legal representatives of the deceased viz., A.Annadurai filed MCOP.No.2320 of 2011, seeking compensation and filed this Appeal on the point of quantum.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash



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and negligent driving of the driver of the Transport Corporation's vehicle are hereby confirmed.

5.During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P.1 to Ex.P.6 were marked and on the side of the Respondents, RW1 was examined and no document was marked.

6.Heard the learned counsel appearing on behalf of the claim Petitioners and the learned counsel appearing on behalf of the Transport Corporation.

7.Learned counsel for the Transport Corporation brought my notice that the Transport Corporation has preferred an appeal in CMA.No.944 of 2016, which was dismissed by this Court on 21.04.2016, wherein the rash and negligence on the part of the driver of the Transport Corporation is confirmed.

8.The claim Petitioners are wife, two minor children and mother of the deceased. The deceased was said to be worked as Painter. As per Ex.P.5, produced before the Tribunal, the age of the deceased at the time of the



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accident is 36 years. Hence, for the accident taken place during 2010, this Court fixed the notional income at Rs.7,000/-. The Tribunal has added 50% towards future prospects, but it should be 40%, as the deceased is not a permanent employee. The Tribunal has adopted right multiplier of "15". The same is hereby confirmed. Number of dependants is 4, and hence, the Tribunal has deducted 1/4th towards personal expenses of the deceased. The same is also hereby confirmed. Therefore, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.7,000/-} + 40\% \text{ of } 7000 = \text{Rs.9,800/-}$$

$$9800 \times 12 \times 15 \times \frac{3}{4} = \text{Rs.13,23,000/-}$$

9.The 1st claim Petitioner as a wife of the deceased is entitled for Rs.40,000/- towards loss of consortium. Claim Petitioners 2 to 4 are entitled for Rs.40,000/- each towards loss of love and affection. A sum of Rs.15,000/- is awarded towards transportation and loss of estate. A sum of Rs.15,000/- is awarded towards funeral expenses.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	1323000
2	Loss of consortium	40000



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S.No.	Head	Amount (Rs.)
3	Loss Love and affection	120000
4	Funeral expenses	15000
5	Transportation & Loss of Estate	15000
	Total Compensation	1513000

In total, the claim Petitioners are entitled to a sum of Rs.15,13,000/- (Rupees Rupees fifteen lakh and thirteen thousand only).

10.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.12,50,000/- to Rs.15,13,000/- to the extent indicated above. No Costs.

(ii) the Transport Corporation is directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, the claim Petitioners 1 & 4/Appellants 1 & 4 are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. They are permitted to withdraw their entire share with proportionate interest and costs, less the award amount



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already withdrawn, if any, by filing necessary application before the Tribunal.

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(iv) The claim Petitioners 2 & 3/Appellants 2 & 3 are minors. They are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The same shall be kept in a interest bearing fixed deposit in any one of the nationalised bank, till they attain majority. The 1st claim Petitioner/1st Appellant, who is the guardian of minors, is permitted to withdraw the interest from the deposit of the minors' share once in three months.

(v) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

15.02.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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WEB COPY To

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



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RMT.TEEKAA RAMAN.J,

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Dated: 15.02.2023