



C.M.A.(MD).No.546 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

C.M.A.(MD).No.546 of 2023

and

C.M.P.(MD).No.3102 of 2023

1.Marimuthu

2.Pandimuthu

... Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Maruthupathi Nagar,
Karaikudi,
Sivagangai District.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the fair and decreetal order dated 29.08.2022 in M.C.O.P.No.63 of 2021 on the file of the Motor Accident Claims Tribunal, Additional District Court, Sivagangai.

For Appellants : Mr.K.Kumaravel

For Respondent : Mr.A.V.B.Krishna Kanth



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J U D G M E N T

This appeal has been filed by the claimants for enhancement of compensation.

2. The brief facts leading to the filing of this appeal are as follows:

On 06.03.2021, at about 5.00 p.m., when the deceased Prabhakaran, who was 11th Standard Computer Science student and studied in St.Joseph Higher Secondary School, aged about 16 years, returning home in a two wheeler bearing Registration No.TN 63 BA 1900, the bus bearing Registration No.TN 63 N 1681 driven by its driver in a rash and negligent manner and dashed against the two wheeler. As a result, the deceased succumbed to injuries. It is the contention of the Transport Corporation that only the minor boy rode the bike in a rash and negligent manner and dashed against the bus.

3. On the side of the petitioners, P.Ws.1 and 2 were examined and Exs.P1 to P13 were marked and on the side of the respondent, R.W.1 was examined and no document was marked.



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4. After appreciating the evidence of P.Ws.1 and 2 and the F.I.R., the Tribunal has found that only the driver of the offending vehicle drove the bus in a rash and negligent manner and dashed against the two wheeler. This aspect has not been challenged either by way of appeal or cross objection by the Transport Corporation. However, while calculating the compensation, the Tribunal has fixed the annual income of the deceased at Rs.45,000/- and adopted multiplier '16', considering the age of the mother and awarded a sum of Rs.8,51,000/- as compensation. Challenging the same, the present appeal has been filed by the claimants.

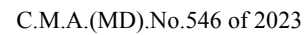
5. In the light of the above submissions, now the point for consideration in this appeal is whether the compensation awarded by the Tribunal is just and reasonable?

6. It is not in dispute that the deceased was a minor, aged about 16 years and pursuing 11th standard in Computer Science in St. Joseph Higher Secondary School. It is relevant to note that the accident took place in the year 2021. Taking note of the consideration of the future



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prospects, after completing his education he would have earned more amount. Merely because at the relevant point of time there was no earning it cannot be said that no income should be fixed. Considering the age of the deceased and he was studying 11th standard in Computer Science, this Court is of the view that it is just and reasonable to fix a sum of Rs.12,000/- per month as notional income. Accordingly, the same is fixed as notional income of the deceased and added 40% towards future prospects (Rs.12,000/- + Rs.4,800/- = Rs.16,800/-) and after deducting 50% towards personal expenses, the total monthly income Rs. 8,400/-. Thus, the loss of dependency comes to Rs.18,14,400/- (Rs. 8,400/- x 12 x 18 = 18,14,400/-). In respect of the other aspects, the amount awarded by the Tribunal is confirmed. The compensation is as follows:



7. After deducting 10% towards contributory negligence on the part of the minor, the award amount comes to Rs.17,50,860/- (Rs. 19,45,400/- - Rs.1,94,540/- = Rs.17,50,860/-).

8. In the result, the Civil Miscellaneous Appeal is allowed and the respondent/Transport Corporation is directed to deposit the entire award amount within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first claimant is entitled to a sum of Rs.10,00,000/- and the second claimant is entitled to a sum of Rs. 7,50,860/-. No costs.

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akv



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To

- 1.The Motor Accident Claims Tribunal,
Additional District Court,
Sivagangai.
- 2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISHKUMAR, J.

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