



C.M.A.(MD).No.180 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.180 of 2019

1. A.Shantha
2. Minor A.Alageswari
3. Minor A.RajeswariAppellants/ Petitioners 1 to 3
(Minor Appellants 2 and 3 are represented
through their guardian/ next friend/
Mother Tmt.A.Shantha, 1st Appellant)

-VS-

1. Tamil Nadu State Transport Corporation Ltd.,
Through its Managing Director,
Bye -Pass Road,
Madurai. 1st Respondent/ Respondent
2. Lakshmi 2nd Respondent/ 4th Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 02.01.2019, passed in M.C.O.P.No.1406/2017, on the file of the MACT Judge/Sessions Judge, Communal Clash Cases Court, Madurai (FAC).



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For Appellants : Mr.V.Sakthivel

For Respondents : Mr.K.Sudalaiyandi – for R1
: No appearance – for R2

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of the compensation fixed by the Motor Accidents Claims Tribunal/Sessions Judge, Communal Clash Cases Court, Madurai (FAC), in M.C.O.P.No.1406 of 2017.

2. According to the claimants, the deceased was aged about 40 years and an Agricultural Coolie, earning a sum of Rs.15,000/- (Rupees Fifteen Thousand only) per month. He met with an accident on 17.02.2017 and he passed away.

3. The Tribunal had arrived at a finding that the driver of the first respondent/Transport Corporation is responsible for the said accident and had proceeded to fix an award amount of Rs.8,94,000/-(Rupees Eight Lakhs Ninety Four Thousand only) interest at 6% per annum. The present appeal has been filed by the claimants seeking enhancement.



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4. According to the learned counsel appearing for the appellants, the Tribunal has taken the notional monthly income at Rs.6,500/- (Rupees Six Thousand and Five Hundred only). The accident has taken place in the year 2017. He relied upon the judgment of the Hon'ble Supreme Court reported in **2014 (1) TNMAC 459 (SC) (Syed Saduq etc., Vs. Divisional Manager, United India Insurance Company Ltd.,)** wherein, the Hon'ble Supreme Court was pleased to fix the notional monthly income at Rs.6,500/- (Rupees Six Thousand and Five Hundred only) for an accident that has taken place in the year 2008. Therefore, according to the learned counsel for the appellants, the notional income should have been appropriately increased considering the fact that the accident has taken place in the year 2017. He further contended that no amount has been added to the loss of income towards future prospects. He further contended that the Tribunal has awarded lesser amount under the head of loss of love and affection. The Tribunal has awarded only Rs.10,000/- (Rupees Ten Thousand only) towards funeral expenses and no amount has been awarded towards loss of estate. Hence, he prayed for enhancement of compensation under the above said heads.



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5. Per contra, the learned counsel appearing for the first respondent had contended that the Tribunal after considering the oral and documentary evidence has properly arrived at the quantum of compensation and therefore, there is no scope for interference in the appeal for enhancement of the compensation.

6. I have carefully considered the submissions made by the learned counsel on either side.

7. In the judgment reported in **2014 (1) TNMAC 459 (SC) (Syed Saduq etc., Vs. Divisional Manager, United India Insurance Company Ltd.,)**, the Hon'ble Supreme Court has fixed the notional monthly income of Rs.6,500/- (Rupees Six Thousand and Five Hundred only) for an accident that has taken place in the year 2008. Therefore, as rightly contended by the learned counsel appearing for the appellants, for an accident that has taken place on February 2017, the Tribunal was not right in fixing the said notional monthly income.

8. This Court is of the view that the notional monthly income could be enhanced from Rs.6,500/- to Rs.7,500/- (Rupees Seven Thousand and Five Hundred only). Considering the fact that the deceased was 40 years old and



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he was self-employed person, 25% should be added towards future prospects and 1/4th income would be deducted towards personal expenses. Therefore, the total monthly income after deducting 1/4th of personal expenses would come to Rs.5,625/- (Rupees Five Thousand Six Thousand and Twenty Five only) and 25% is added towards future prospects, the total notional monthly income would be arrived at Rs.7,031/- (Rupees Seven Thousand and Thirty One only).

9. The Tribunal has awarded lesser amount for loss of consortium and loss of filial consortium to the four claimants. This Court is inclined to award a sum of Rs.40,000/- to each one of the claimants. Totally, a sum of Rs. 1,60,000/- (Rupees One Lakhs Sixty Thousand only) is awarded. This Court enhances the funeral expenses from Rs.10,000/- to Rs.15,000/- (Rupees Fifteen Thousand only) and this Court also proceeds to award another sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards loss of estate. As rightly pointed out by the learned counsel for the appellants, the Tribunal has just awarded interest at 6% per annum and the accident has taken place in the year 2017, this Court is inclined to enhance the interest from 6% p.a., to 7.5% per annum.



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10. In view of the above said deliberations, the award of the Tribunal is modified as follows:

Loss of income (Rs.7,031x12x14)	: Rs.11,81,208/-
Loss of consortium and loss of filial consortium (Rs.40,000x4)	: Rs. 1,60,000/-
Funeral Expenses	: Rs. 15,000/-
Loss of Estate	: <u>Rs. 15,000/-</u>
Total	: Rs.13,71,208/-

11. Therefore, the award amount of the Tribunal is enhanced from Rs.8,94,000/- (Rupees Eight Lakhs Ninety Four Thousand only) to Rs.13,71,208/- (Rupees Thirteen Lakhs Seventy One Thousand Two Hundred and Eight only). The award amount will carry interest at the rate of 7.5% from the date of filing of the claim petition. The first respondent/Transport Corporation is directed to deposit the balance award amount within a period of twelve weeks from the date of receipt of a copy of this order.



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12. Accordingly, this Civil Miscellaneous Appeal is allowed to the extent as sated above. There shall be no order as to costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accidents Claims Tribunal/
Sessions Judge, Communal Clash Cases Court,
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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