



C.M.A.(MD).No.1095 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1095 of 2014

1. Velayutham
2. Pasamalar

... Appellants/Petitioners

-VS-

Karnataka State Road,
Transport Corporation,
having its Central Office,
at Bangalore.

... Respondent/
Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the fair and decretal order dated 06.12.2012 passed in M.C.O.P.No.201 of 2010, on the file of the Motor Accident Claim Tribunal/Additional Sub Court, Kumbakonam.

For Appellants : Mr.K.M.Karunakaran

For Respondent : Mr.D.Sivaraman

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of the award passed in M.C.O.P.No.201 of 2010, on the



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file of the Motor Accident Claims Tribunal/Additional Sub Court,
Kumbakonam.

2. According to the claimants, the deceased was a M.Tec (EEC) student aged about 22 years and she was a pillion rider in a two wheeler. On 06.09.2009 the respondent/Transport Corporation vehicle was driven in a rash and negligent manner and dashed against the two wheeler, in which, she sustained grievous injuries and succumbed to the said injuries.

3. The respondent/Transport Corporation had filed a counter disputing the manner of accident, negligence and the quantum of compensation prayed for.

4. The Tribunal, after considering the oral and documentary evidence, has arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the driver of the respondent Corporation. The Tribunal further found that the Transport Corporation is liable to pay the compensation.



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5. As far as the quantum of compensation is concerned, the Tribunal had taken the notional monthly income at Rs.12,000/- (Rupees Twelve Thousand only) and deducted 50% towards personal expenses and arrived at a sum of Rs.10,08,000/- (Rupees Ten Lakhs and Eight Thousand only) under the head of loss of income. The Tribunal further awarded a sum of Rs. 40,000/- (Rupees Forty Thousand only) towards loss of love and affection, a sum of Rs.5,000/- (Rupees Five Thousand only) towards Transportation charges and a sum of Rs.5,000/- (Rupees Five Thousand only) towards funeral expenses. Totally, a sum of Rs.10,58,000/- (Rupees Ten Thousand and Fifty Eight Thousand only) was awarded. This award is under challenge in the present appeal filed by the claimants seeking enhancement.

6. According to the learned counsel appearing for the appellants, the Tribunal has not taken into consideration the future prospects of the deceased who was a M.Tech (EEC) student. He further contended that there are two claimants each one of them should have been awarded a sum of Rs.40,000/- towards loss of love and affection. He further contended that the compensation under the head of loss of estate, funeral expenses and transport



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expenses are to be enhanced.

7. Per contra, the learned counsel appearing for the respondent/ Transport Corporation had contended that the deceased was a M.Tec Student and therefore, the Tribunal was right in fixing the notional monthly income as Rs.12,000/- and there is no scope for any claim of addition in future prospects. Hence, he prayed for confirming the award passed by the Tribunal.

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

9. Considering the fact that the deceased was aged about 22 years and she was a P.G student pursuing a professional Course, this Court is of the opinion that 40% should be added towards future prospects. If 40% is added and 50% is deducted under the heads of personal expenses, the Total compensation under the head of loss of income would be at (Rs.8,400x18x12) is Rs.18,14,400/-(Rupees Eighteen Lakhs Fourteen Thousand and Four Hundred only). As rightly contended by the learned counsel for the appellants, a sum of Rs.40,000/- (Rupees Forty Thousand only) to each one of



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the claimants is to be awarded under the head of loss of love and affection.

10. In view of the above said deliberations, the award amount is modified to the following effect:

Loss of income	: Rs.18,14,400/-
Loss of Love and Affection (40,000x2)	: Rs. 80,000/-
Loss of estate	: Rs. 15,000/-
Funeral Expenses	: Rs. 15,000/-
Transportation Expenses	: <u>Rs. 10,000/-</u>
Total	: Rs.19,34,400/-

11. Therefore, the award of the Tribunal is modified from Rs.10,58,000/- to Rs.19,34,400/- (Rupees Nineteen Lakhs Thirty Four Thousand and Four Hundred only) and the award amount will carry interest at the rate of 7.5% per annum, from the date of claim petition. The Transport Corporation is directed to deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this order.



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12. This Civil Miscellaneous Appeal is partly allowed to the extent as stated above. There shall be no order as to costs.

26.06.2023

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

1. The Motor Accident Claim Tribunal/
Additional Sub Court,
Kumbakonam.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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