IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.91 of 2024

V.Bharathi
S.Velpandian (since deceased) ... Appellant

Vs.

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

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the order made in M.C.O.P.No.3083 of 2017, dated 27.06.2023, on the file of the Motor Accidents Claims Tribunal, (in the III Court of Small Causes, at Chennai).

For Appellant	:	Mr.Amar Dineshbhai Pandiya
For Respondent	:	Mr.M.Murali Vinodh

JUDGEMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal in M.C.O.P.No.3083 of 2017 dated 27.06.2023.

2. On 01.11.2016, at about 20.40 hours, the deceased Mr.Velpandian, who is the husband of the appellant, was riding a two-wheeler bearing Reg.No.TN-10-AB-3121, he was hit by a bus bearing Reg.No.TN-01-N-7715, which came from the same direction and driven by its driver in a rash and negligent manner. Due to the said accident, the deceased sustained grievous injuries all over his body and died on the spot. Therefore, the appellant made a claim petition before the Tribunal, claiming a compensation of Rs.30,00,000/-.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.15,82,600/- towards compensation to the appellant. Not satisfied with the same, the appellant has filed the

present appeal.

4. The learned counsel for the appellant would submit that at the time of accident, the deceased was working as a Supervisor in M/s.Royal Associates and was earning Rs.15,000/- per month. However, without considering the same, the Tribunal had erroneously fixed the notional monthly income of the deceased at Rs.10,000/-, which is on the lower side, and the same is required to be enhanced. On relying upon the judgment of Hon'ble Division Bench of this Court in the case of ***Andal vs. Avinav Kannan and another*** **reported in 2019 (1) TNMAC 54, (Madras)**, the learned counsel submitted that based on the Cost of Living Index, the income of the deceased would come around Rs.13,302/- (Rs.6,500x264/129=Rs.13,302/-). Further, he relied on the judgment of Hon'ble Apex Court, in the case of ***Syed Sadiq Vs. United India Insurance Company,*** reported in ***2014 (1) TNMAC 459 (SC)***, wherein the Apex Court fixed the notional monthly income even for a vegetable vendor at Rs.6,500/-, who sustained injuries in the accident occurred in the year 2008, by applying the multiplier based on cost inflation index, in the absence of any proof for income, the income would

come more than a sum of Rs.13,000/- per month. However, in the present case, as stated above, the deceased was a Supervisor and was aged about 24 years at the time of accident, and applying the cost inflation index, the notional income comes around Rs.13,302/-. Hence, he prays for appropriate enhancement in favour of the appellant.

5. The learned counsel appearing for the respondent/Transport Corporation would submit that, the Tribunal has fixed the notional monthly income of the deceased at Rs.10,000/-, in the absence of any proof for income, viz., salary certificate. Further, he contended that in the event, the deceased was a Supervisor, there is no difficulty to produce the salary certificate.

6. Heard the learned counsel for the appellant and the learned counsel appearing for the respondent and perused the materials available on record.

7. In the present case, as noticed above, the deceased was a Supervisor and was aged about 24 years at the time of accident. Hence,

this Court, in the light of the law laid down by the Hon'ble Supreme Court in ***Syed Sadiq's*** case (cited supra) and taking into consideration of the nature of employment of the deceased and applying the cost inflation, this Court feels it appropriate to fix the notional monthly income of the deceased at Rs.13,000/-, which is just and reasonable. Thus, by fixing the notional income of the deceased at Rs.13,000/- per month; adding 40% future prospects; deducting 50% towards his personal and living expenses of the deceased (as the deceased was a bachelor at the time of the accident); and adopting the multiplier of '18' (since the deceased was aged about 24 years), the compensation towards Loss of Dependency is calculated as under:-

Loss of Income	***Amount in Rs.***
Notional income (Per month)	13,000
Add: Future Prospects (Rs.13,000 x 40%) (Per month)	5,200
	18,200
Less: Personal expenses (50%) (Rs.18,200/- x 1/2) (Per month)	9,100
Notional income (per annum) (Rs.9,100/- x 12)	1,09,200
Multiplier	18
Total	**19,65,600/-**

8. Consequently, the sum of **Rs.15,12,000/-** awarded by the Tribunal under the head of 'Loss of Dependency' is hereby modified to **Rs.19,65,600/-**.

9. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds that the same are just and proper and are hereby confirmed. Thus, the total compensation payable to the claimants under various Heads is as hereunder:-

S.No	***Head***	***Amount granted* (in Rs.)**
1.	Loss of Dependency	**19,65,600/- (enhanced)**
2.	Loss of love and affection	40,000/-
3.	Loss of Estate	15,000/-
4	Funeral Expenses	15,000/-
Total		**20,35,600/-**

10. Accordingly, the Appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation

amount from **Rs.15,82,600/-** to **Rs.20,35,600/-**. The respondent is directed to deposit the said amount to the credit of M.C.O.P.No.3083 of 2017 along with interest from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimant, whichever is later. It is made clear that the claimant is not entitled for any interest for the delay period of filing the appeal, if any. No costs.

09.02.2024

Index : Yes / No
NCC : Yes / No
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To

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

2. The Section Officer,
   V.R. Section,
   High Court, Madras.

Krishnan Ramasamy,J.,

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C.M.A.No.91 of 2024

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