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C.M.A.No.136 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

**C.M.A.No.136 of 2024**

- 1.S.Mala
- 2.Minor S.Bakkiyalakshmi
- 3.Minor S.Vignesh
- 4.Minor S.Surya

[\*\*\* Minor appellants 2 to 4 are represented by next friend and natural guardian/1<sup>st</sup> appellant]

...Appellant

Vs

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

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to modify the impugned order dated 10.10.2023, in MCOP.No.4422 of 2021 by adequately enhancing the compensation awarded under various heads.



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For Appellant : Mr.R.Dinesh Kumar  
For Respondents : Mr.M.Murali Vinodh,  
Standing counsel

### **JUDGMENT**

This civil miscellaneous appeal has been filed challenging the judgement dated 10.10.2023 in MCOP.No.4422 of 2021.

2. The learned counsel for the appellants would submit that on 02.10.2021, when the deceased was proceeding to cross the road in EVR Salai, Aminjikari, a MTC bus bearing Registration No.TN-01-AN-2143 came in a rash and negligent manner and dashed against the deceased, due to which he was died on the way to the Hospital. Considering all the aspects the Tribunal had awarded the following compensation:

| <i>S.No</i> | <i>Particulars</i> | <i>Compensation (Rs.)</i> |
|-------------|--------------------|---------------------------|
| 1           | Loss of Dependency | 19,68,750                 |
| 2           | Loss of Consortium | 1,60,000                  |
| 3           | Loss of Estate     | 15,000                    |



| <i>S.No</i> | <i>Particulars</i> | <i>Compensation (Rs.)</i> |
|-------------|--------------------|---------------------------|
| 4           | Funeral Expenses   | 15,000                    |
| 5           | Transport Charges  | 5,000                     |
|             | Total              | 21,63,750                 |
|             | Rounded off to     | 21,64,000                 |

3. Further, he would contend that at the time of death, the deceased was earning a sum of Rs.1,000/- per day i.e., a sum of Rs.30,000/- per month. However, the Tribunal had fixed only a sum of Rs.12,500/- as notional income, which is on lower side. Hence, he requests this Court to enhance the same.

4. In reply, the learned counsel for the respondent would request this Court to fix a sum of Rs.15,000/- as a notional income of the deceased instead of Rs.12,500/-.

5. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

6. In the present case, the accident was occurred in the year 2021. In many cases, this Court had fixed a sum of Rs.15,000/- as notional income even



for the accidents occurred in the year 2017. In such view of the matter, considering the year of accident, cost inflation and facts and circumstances of the case, this Court is inclined to fix a sum of Rs.17,000/- as notional income of the deceased instead of Rs.12,500/-. Therefore, by adding 25% as future prospects and by applying 14 as multiplier and also by deducting  $\frac{1}{4}$  towards the personal expenses of the deceased, the loss of dependency would be calculated as follows:

$$\text{Rs.17,000 (notional income) + Rs.6,800 (future prospects) * 14 (multiplier) * 12 (months) * } \frac{3}{4} \text{ (dependency) = Rs.29,98,800/-}$$

7. Accordingly, the compensation awarded by the Tribunal is modified as follows:

| <i>S.No</i> | <i>Particulars</i> | <i>Compensation awarded by the Tribunal (Rs.)</i> | <i>Compensation awarded by this Court (Rs.)</i> |
|-------------|--------------------|---------------------------------------------------|-------------------------------------------------|
| 1           | Loss of Dependency | 19,68,750                                         | 29,98,800                                       |
| 2           | Loss of Consortium | 1,60,000                                          | 1,60,000                                        |
| 3           | Loss of Estate     | 15,000                                            | 15,000                                          |
| 4           | Funeral Expenses   | 15,000                                            | 15,000                                          |
| 5           | Transport Charges  | 5,000                                             | 5,000                                           |
|             | Total              | 21,63,750                                         | 31,93,800                                       |
|             | Rounded off to     | 21,64,000                                         | 31,93,800                                       |



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8. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.31,93,800/-. Accordingly, the award amount stands enhanced from a sum of Rs.21,64,000/- to Rs.31,93,800/-. In all other aspects, the award of the Tribunal stands confirmed. The compensation awarded by this Court shall be distributed to the claimants in the following proportions:

- a) to the children of the deceased i.e., appellants 2 to 4 –  
Rs.15,00,000/- (Rs.5,00,000/- each);
- b) to the wife of the deceased i.e., 1<sup>st</sup> appellant –  
Rs.16,93,800/-;

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the respondent/Transport Corporation is directed to deposit a sum of Rs.31,93,800/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.4422 of 2021 on the file of the Motor Accident Claims Tribunal, Special Sub Court I, Small Causes Court, Chennai. Further, the appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately



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transfer the entire amount to the respective bank accounts of the claimants by way of RTGS, in the proportions determined by this Court, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

**23.01.2024**

Index: Yes/No  
Internet: Yes/No  
Speaking order/Non-speaking order  
nsa

To:

The Motor Accident Claims Tribunal,  
Sub Court I, Small Causes Court, Chennai.



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**KRISHNAN RAMASAMY,J.**

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