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C.M.A.Nos.1388 of 2016 and 2780 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.1388 of 2016 and 2780 of 2014
and
C.M.P.No.10578 of 2016

Metropolitan Transport Corporation (Chennai),
Rep. by its Managing Director,
Pallavan Salai, Chennai - 2.

... Appellant
In C.M.A.No.1388 of 2016
and
... Respondent
In C.M.A.No.2780 of 2014

Vs.

1.M.Sumathy
2.S.Mohan
3.M.Parvathy(Minor)
4.M.Aparna (Minor)
(Minors rep. by their Father and
Next friend 2nd respondent)

... Respondents
In C.M.A.No.1388 of 2016
and
... Appellants
In C.M.A.No.2780 of 2014

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section
173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated



21.03.2014 made in M.C.O.P. No.5879 of 2011 on the file of the Chief
Small Causes Court, Motor Accidents Claims Tribunal, Chennai.

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For Appellant
In C.M.A.No.1388 of 2016
and
For Respondent
In C.M.A.No.2780 of 2014 : Mr.S.Sivakumar

For Respondents
In C.M.A.No.1388 of 2016
and
For Appellants
In C.M.A.No.2780 of 2014 : Mr.R.Kalai Arasan

COMMON JUDGMENT

The Transport Corporation as well as the claimants have preferred two separate appeals, challenging the very same award passed by the Tribunal.

2. The Transport Corporation, who is the appellant in C.M.A.No.1388 of 2016 has challenged the award on the following grounds:

- a) The driver of the bus owned by the Transport Corporation was not responsible for the cause of accident;
- b) The quantum of compensation awarded by the Tribunal is



excessive.

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3. The claimants have preferred an appeal in C.M.A.No.2780 of 2014, seeking for enhancement of compensation, as according to them, the compensation awarded by the Tribunal is low.

4. The victim died while boarding the bus, owned by the Transport Corporation. The claimants are the dependents of the deceased accident victim. They claim that due to the rash and negligent driving of the driver of the bus, owned by the Transport Corporation, the victim fell down from the bus, resulting in his death. According to them, before the victim could board the bus, the driver of the bus proceeded from the bus stop by driving in a rash and negligent manner. The F.I.R. was also registered against the driver of the bus owned by the Transport Corporation and the same has been marked as Ex.P1 before the Tribunal. No contra evidence has been produced by the Transport Corporation to disprove the fact that the accident victim died only as a result of the rash and negligent driving of the driver of the bus owned by the Transport Corporation.



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5. The Transport Corporation has not filed any documentary evidence before the Tribunal to disprove the contention of the claimants that the driver of the bus was alone responsible for the cause of the accident. The Tribunal, based on the preponderance of probability, has rightly given a finding that the driver of the bus owned by the Transport Corporation was alone responsible for the cause of the death of the accident victim. This Court does not find any infirmity in the said finding.

6. With regard to the quantum of compensation awarded by the Tribunal is concerned, this Court discusses the same in the forthcoming paragraphs:

a) The victim was a B.Tech third year student, studying in an Engineering College in Chennai and was aged 20 years and the accident happened on 07.12.2011. The Tribunal has fixed the notional monthly income of the accident victim at Rs.7,500/-. This Court after giving due consideration to the year of the accident and after giving due consideration to the educational qualification of the victim is of the considered view that the fixation of the notional monthly income of the victim at Rs.7,500/- per



month is little low and it has to be enhanced to Rs.8,000/- per month.

Accordingly, the notional monthly income of the deceased accident victim is enhanced from Rs.7,500/- to Rs.8,000/- per month by this Court.

b) The Tribunal has also failed to award loss of future prospects which the claimants are legally entitled to as per the decision of the Honourable Supreme Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and Others* reported in *2017 (16) SCC 680*. Accordingly, this Court awards 40% towards loss of future prospects.

c) The Tribunal has awarded a total compensation of Rs.8,50,000/- to the claimants as detailed hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>
Funeral expenses	10,000
Loss of love and affection to the parents	25,000
Loss of pecuniary benefits and loss of estate of the deceased [Rs.7,500/- per month (After deducting 50%) x 12 x 18]	8,10,000
Transport Expenses	5,000
Loss of estate and deceased	---
Total	8,50,000

d) In so far as the compensation awarded by the Tribunal towards



funeral expenses and loss of love and affection are concerned, the same is on the lower side. Since the accident happened in the year 2011, the compensation towards funeral expenses is enhanced from Rs.10,000/- to Rs.15,000/- by this Court.

e) The claimants are the parents and siblings of the deceased accident victim. The Tribunal has awarded a compensation of Rs.25,000/- towards loss of love and affection to the claimants. At the time of the accident, the siblings were minors and they are not entitled for any compensation towards loss of love and affection. However, the Tribunal has awarded a meagre compensation of Rs.25,000/- only towards loss of love and affection. As per the decision rendered in ***Pranay Sethi's*** case, each of the parents is entitled to Rs.40,000/- each towards loss of love and affection. Accordingly, the compensation payable to the claimants towards loss of love and affection is enhanced from Rs.25,000/- to Rs.80,000/-.

f) The Tribunal has also not awarded any compensation towards loss of estate, which the claimants are legally entitled as per ***Pranay Sethi's*** Judgment. This Court awards a compensation of Rs.15,000/- towards loss of estate to the claimants.



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7. For the foregoing reasons, both the appeals are disposed of by this Court, by holding that the findings of the Tribunal with regard to the cause of the accident is confirmed by this Court and in so far as the compensation awarded by the Tribunal is concerned, the compensation of **Rs.8,50,000/-** awarded by the Tribunal is enhanced to **Rs.13,24,600/-** as detailed hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
Funeral expenses	10,000	15,000
Loss of love and affection to the parents	25,000	80,000
Loss of pecuniary benefits and loss of estate of the deceased	8,10,000	12,09,600
Transport Expenses	5,000	5,000
Loss of estate and deceased	---	15,000
Total	8,50,000	13,24,600

8. Accordingly, the appeal filed by the Transport Corporation in C.M.A.No.1388 of 2016 does not deserve any merit and the same is dismissed. However, C.M.A.No.2780 of 2014 filed by the claimants is disposed of by enhancing the compensation payable to the appellants in C.M.A.No.2780 of 2014 from **Rs.8,50,000/-** to **Rs.13,24,000/-**. The



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Transport Corporation is directed to deposit the enhanced award amount of **Rs.13,24,600/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.5879 of 2011** on the file of the **Chief Small Causes Court, Motor Accidents Claims Tribunal, Chennai**, within a period of **four weeks** from the date of receipt of a copy of this judgment.

9. The claimants are permitted to withdraw the said amount, once it is deposited by the Transport Corporation, by filing an appropriate application. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.5879 of 2011** to the bank account of the appellant directly through RTGS, within a period of **one week** thereafter. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.04.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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C.M.A.Nos.1388 of 2016 and 2780 of 2017

To

1. The Chief Small Causes Court, Motor Accidents Claims Tribunal,
Chennai.

2. The Section officer, Record Section, High Court of Madras.



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ABDUL QUDDHOSE. J.,

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