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C.M.A.No.145 of 2022

IN THE HIGH OF JUDICATURE AT MADRAS

DATED : 07.02.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

C.M.A.No.145 of 2022

1. Ms.Badhar Nisha
2. S.Basheer Ahmed
3. B.Mohammed Sabiq

... Appellants

Vs.

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

...Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree, dated 26.07.2021 made in M.C.O.P.No.6535 of 2017, on the file of the Motor Accident Claims Tribunal/IV Small Causes Court, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

Respondent : Mr.A.Vinothraj



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JUDGEMENT

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Questioning the quantum of compensation passed by the Motor Accident Claims Tribunal cum IV Small Causes Court, Chennai (hereinafter, referred to as 'the Tribunal') dated 26.07.2021 in M.C.O.P.No.6535 of 2017, dated 26.07.2021, the claimants have filed the present Appeal.

2. Since the present Appeal is filed only questioning the quantum of compensation, it is not necessary for this Court to traverse into the other aspects of the award passed by the Tribunal.

3. On 20.09.2017 at about 18.00 hours, when Mustaq (deceased) was about to board the Bus, bearing Regn.No.TN-01-AN-1591, at M.K.N. Road-GST Road Junction Bus Stop, the driver of the Bus took the bus suddenly and closed the door, due to which, Mustaq fell down from the Bus, sustained head injuries and died on the way to Hospital. Hence, the claimants, viz., the mother, father and brother of the deceased filed a Claim Petition seeking a sum of Rs.60,00,000/- as compensation.



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4. The Tribunal, after considering the oral and documentary evidence held that the accident occurred due to the negligent driving of the Bus belonging to the respondent, Metropolitan Transport Corporation, and directed the respondent/Transport Corporation to pay a compensation of Rs.15,83,000/- with interest at 7.5% p.a. from the date of petition till the date of realisation. The break up details of the compensation amount are as follows:-

1.	Loss of Dependency	: Rs. 14,28,000/-
2.	Loss of Estate	: Rs. 15,000/-
3.	Funeral Expenses	: Rs. 15,000/-
4.	Loss of Love and Affection	: Rs. 1,20,000/-
5.	Transportation to Hospital	: Rs. 5,000/-
Total		: <u>Rs.15,83,000/-</u>

5. Aggrieved over the award passed by the Tribunal, the appellants/claimants have filed the present appeal seeking for enhancement of compensation.



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6. Mr.K.Varadha Kamaraj, learned counsel appearing for the appellants/claimants would submit that at the time of the accident, which occurred in the year 2017, the appellant was aged about 26 years; that four months before the accident, he worked as a Senior Coordinator-HR in M/s.Cognizant Technology Solutions and earned a monthly income of Rs.30,000/-; that, however, the Tribunal, while determining the compensation under the head, 'Loss of Dependency', fixed a sum of Rs.10,000/- p.m. which is meagre. Hence, the learned counsel prays that some reasonable amount, preferably, Rs.15,000/- p.m. may be fixed towards the notional monthly income of the deceased and accordingly, just compensation may be determined towards 'Loss of Dependency'. The learned counsel also fairly admitted that the award of compensation by the Tribunal under the heads are just and fair and therefore, submitted that the same may be confirmed.

7. Mr.A.Vinothraj, learned counsel for the respondent/Transport Corporation submitted that the award passed by the Tribunal under the



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head, 'Loss of Dependency' at Rs. Rs.14,28,000/- by taking the notional income of the deceased at Rs.10,000/- in the absence of income proof produced by the claimants is just and fair and requires no interference. However, the learned counsel submitted if this Court proceeds to fix reasonable amount towards the notional monthly income of the deceased, the same shall not exceed Rs.12,000/-.

8. I have given due considerations to the submission made by the learned counsel for the appellants and the learned counsel for the respondent/Transport Corporation and perused the materials available on record.

9. It is an undisputed fact that few months before the accident, the deceased worked as a Senior Coordinator in M/s.Cognizant Technology Solutions. Now, the dispute is only with regard to the monthly income earned by the deceased. According to the learned counsel for the appellants, since the deceased had worked in a reputed Concern, a sum of Rs.15,000/- may be fixed as notional monthly income of the deceased. However, learned



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counsel requested this Court to fix reasonable sum as notional monthly income of the deceased, not exceeding Rs.12,000/-.

9.1 On consideration of the above submissions, this Court is of the view that when there is no denial to the aspect that the deceased worked in M/s.Cognizant Technology Solutions, it could be easily inferred that a person employed in the said reputed Concern as Senior Coordinator HR, would have perhaps earned a monthly income not less than Rs.18,000/-. However, in the absence of income proof produced by the appellants/claimants, this Court deems it appropriate to fix a sum of Rs.14,000/- as notional monthly income of the deceased.

9.2 Thus, by fixing the notional monthly income of the deceased at Rs.14,000/-; adding 40% towards future prospects; deducting 50% towards his personal expenses (since the deceased was a Bachelor) and by applying right multiplier of '17' (since the deceased was aged 26 years), the compensation towards Loss of Dependency is calculated as under:-



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Notional Monthly income + 40% future prospects
(i.e. **Rs.14,000/- + Rs.5,600**) = **Rs.19,600/-**

(Deduction of $1/2$ x (Multiplier of '18')
towards personal expenses)

9,800/- x $1/2$ x 12 x 17 = Rs.19,99,200/-

9.3 Consequently, the sum of Rs.14,28,000/- awarded by the Tribunal under the head 'Loss of Dependency' is hereby modified and enhanced to **Rs.19,99,200/-**. Insofar as the compensation awarded by the Tribunal under all other heads are concerned, this Court finds the same to be just and proper and is hereby confirmed.

10. Thus, the total compensation payable to the appellants/claimants under various Heads is as hereunder:-

<i>S.No</i>	<i>Head</i>	<i>Amount granted</i>
1.	Loss of Dependency	Rs.19,99,200/-
2	Loss of Estate	Rs. 15,000/-
3	Funeral Expenses	Rs. 15,000/-
4	Loss of Love and Affection	Rs. 1,20,000/-
5	Transportation to Hospital	Rs. 5,000/-
Total		Rs.21,54,200/-



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10.1 Consequently, the total compensation amount of

Rs.15,83,000/- awarded by the Tribunal is hereby modified and enhanced to **Rs.21,54,200/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit, out of which, first appellant, the mother of the deceased is entitled to a sum of **Rs.12,00,000/-** together with proportionate interest; second appellant, father of the deceased is entitled to **Rs.8,00,000/-**; and third appellant, brother of the deceased is entitled to a sum of **Rs.1,54,200/-** together with proportionate interest.

11. In the result, this Civil Miscellaneous Appeal filed by the appellants/claimants is partly allowed on the following terms:-

(i) The respondent, Metropolitan Transport Corporation Ltd., is directed to deposit the entire amount awarded by this Court equally along with interest at the rate of 7.5 % p.a. and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, after deducting the amount already deposited, if any.



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(ii) On such deposit being made by the respondent, the Tribunal shall transfer the amount directly to the claimants' respective bank accounts through RTGS within a period of three weeks thereon.

(iii) The appellants/claimants are entitled to withdraw the entire award amount, less the amount already withdrawn, if any, by making necessary application before the Tribunal.

iv) The appellants/claimants are directed to pay the court fee for the enhanced compensation, if any.

v) There shall be no order as to costs.

07.02.2024

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To

The IV Judge, Small Causes Court,
Motor Accident Claims Tribunal, Chennai.

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C.M.P.No.27849 of 2023
in
C.M.A.No.145 of 2022

Krishnan Ramasamy,J.,

The learned counsel appearing for the appellant seeks permission of this Court to withdraw this Petition and he has also made an endorsement to that effect in the Petition.

Recording the said endorsement, this Petition is dismissed as withdrawn.

07.02.2024

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