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Civil Miscellaneous Appeal No.1170 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1170 of 2024

M.Kalyanasundram (died)

1. K.Chandravathinan
2. Kalairasan
3. Kaladevi
4. M.Renuka
- 5.C.Manavel

[cause title accepted vide
order dated 11.03.2024 made in
CMP No.4715/2024 in CMA AR No.11143/2024
by KRJ]

... Appellants

Vs.

1. Managing Director,
TNSTC (Division I)
3/137, Salamedu,
Vazhuthareddy Post,
Villupuram – 605 602

2. General Manager,
TNSTC (Division I),
Cuddalore Region,
Imperial Road,
Cuddalore – 607 002
[Amended as per order in I.A.No.159 of 2021]



Civil Miscellaneous Appeal No.1170 of 2024

dated 07.05.2021]

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decree in M.C.O.P No.1084 of 2013 dated 04.07.2023 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Cuddalore).

For Appellant : Mrs.Ramya V Rao

For Respondents : M/s.C.R.Suresh Kumar for R1

JUDGMENT

The claimants, who are the wife, minor children and parents of the deceased Kalyana Sundaram, not being satisfied with the quantum of compensation have filed this appeal challenging the award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate, Cuddalore) in M.C.O.P No.1084 of 2013 dated 04.07.2023.

2. The case of the claimants is that the deceased Kalyanasundaram was driving the Tata Ace Vehicle on 24.10.2012 and at about 2.00 p.m, the bus belonging to the transport corporation was driven



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in a rash and negligent manner and it dashed on the vehicle that was driven by the deceased. As a result of which, the deceased sustained serious head injury. He was taking treatment continuously as an in patient and ultimately, he died on 22.05.2014. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the transport corporation. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs20,37,950/- under various heads as follows :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of Income	Rs.16,12,800/-
2.	Loss of Consortium (2 to 4 Rs.40,000/- each (Rs.40,000/- x 3 = 1,20,000/-) (5 and 6 Rs.20,000/-	Rs. 1,60,000/-



Sl. No.	Compensation awarded under the head	Amount (in Rs.)
	each (Rs.20,000/-x2)	
3.	Medical expenses	Rs.2,35,089/-
4.	Loss of estate	Rs. 15,000/-
5.	Funeral expenses	Rs. 15,000/-
	Total	Rs.20,37,889/-

rounded off to Rs.20,37,900/-

The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

4. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

5. Heard Mrs.Ramya V Rao, learned counsel for appellants/ claimants and Mr.C.R.Suresh Kumar, learned counsel for 1st respondent/Transport Corporation.

6. This Court has carefully considered the submissions made on either side and the materials available on record.



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7. This Court also carefully went through the award passed by the Tribunal.

8. The learned counsel for appellants submitted that the Tribunal had fixed only a sum of Rs.8,000/- towards notional monthly income of the deceased. In the instant case, the claimants came up with a case that the deceased was a driver and he was earning a sum of Rs.50,000/- as monthly income. There was no evidence with regard to the avocation of the deceased and the income earned by him. The notional monthly income fixed by the Tribunal at Rs.8,000/- is on the lower side considering the fact that the accident had taken place in the year 2012 and the deceased was admittedly the owner / driver at the time of the accident and there were nearly five claimants dependant on the income of the deceased. Therefore, this Court is inclined to fix the notional monthly income at Rs.12,500/- per month. Considering the age of the deceased, 40% can be added towards future prospects.



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9. The compensation under the head of loss of income / dependency is calculated as follows :-

Monthly Income	:	Rs. 12,500/-
Add: Future Prospects	:	Rs. 5,000/-
40% of Rs.12,500/-		-----
		Rs. 17,500/-
Annual Income	:	Rs. 2,10,000/-
(17,500 * 12)		
Less : Personal expenses		
Rs.2,10,000/- * 1/4	:	Rs. 52,500/-

		Rs. 1,57,500/-
Multiplier	:	x 16

Loss of income/dependency	:	Rs.25,20,000/-

9. The Tribunal has fixed only a sum of Rs.1,60,000/- under the head of loss of consortium. This Court is inclined to fix a sum of Rs.2,00,000/- (Rs.40,000 x 5) under the head of “loss of love and affection”.

10. In the instant case, the deceased underwent treatment for nearly 111 days as an in patient. Right through from the date of accident,



the deceased was bedridden and have to be taken care by someone on a continuous basis. Therefore, this Court is inclined to fix Rs.50,000/- towards the Attender Charges.

11. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.

12. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of Income	Rs.25,20,000/-
2.	Loss of Consortium to wife	Rs. 40,000/-
3.	Loss of love and affection to Children and parents (3 to 6 Rs.40,000 x 4)	Rs.1,60,000/-
3.	Medical expenses	Rs.2,35,089/-
4.	Loss of estate	Rs. 15,000/-
5.	Funeral expenses	Rs. 15,000/-
6.	Attendar Charges	Rs. 50,000/-
	Total	Rs.30,35,089 /-



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13. The compensation awarded by the Tribunal at Rs.20,37,900/- is enhanced to Rs.30,35,089/-. The Transport Corporation is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs.

15.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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Civil Miscellaneous Appeal No.1170 of 2024

N.ANAND VENKATESH.,J

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To,

Motor Accident Claims Tribunal (Chief Judicial Magistrate, Cuddalore)

Civil Miscellaneous Appeal No.1170 of 2024

15.07.2024