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CMA.No.2679 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2679 of 2023

1. Kamatchi

2. Minor Saravanan

3. Minor Santhiya

4. Minor Sathees

(Minor 2nd to 4th Appellants represented
by their mother Kamatchi as Natural
Guardian and next friend)

5. Kaliyaperumal

6. Pushpa

... Appellants

VS.

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan House, Anna Salai,
Chennai -2.
Respondents

...

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 19.10.2022 in M.C.O.P.No.613/2018 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.



CMA.No.2679 of 2023

For Appellants : Mrs.A.Subadra
For Respondent : Mr.M.Murali Vinodh

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.613/2018 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.65,00,000/- for the death of one Srinivasan, (the husband of the first claimant, father of the claimants 2 to 4 and son of the claimants 5 and 6) in a road accident which happened on 23.12.2017.

2. The brief case of the appellants / claimants is as follows :

On 23.12.2017 at about 6.45 a.m., Srinivasan (deceased) was attempting to cross the road near Urapakkam junction on Chengalpatu - Tambaram GST Road. At that time, a speeding bus bearing Registration number TN-01-N-5055 belonging to the respondent, Metropolitan Transport Corporation Limited, hit the said Srinivasan, as a result of which he sustained injuries all over his body. He was immediately rushed to the Government Hospital, Chengalpattu for treatment, however he succumbed to the injuries on the same day.



CMA.No.2679 of 2023

3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN-01-N-5055 belonging to the respondent was the cause of the accident and therefore, the respondent is liable to pay compensation.

4. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.23,81,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 19.10.2022.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, seeking enhancement of compensation amount.

6. Heard Mrs.A.Subadra, learned counsel appearing for the appellants and Mr.M.Murali Vinodh, learned counsel for the second respondent.



7. Mrs.A.Subadra, learned counsel appearing for the appellants

contended that the deceased was a mason, aged 37 years on the date of the accident and that the Tribunal had fixed a very meagre sum of Rs.11,000/- as his monthly notional income. She therefore prayed for enhancing the income of the deceased.

8. Per contra Mr.M.Murali Vinodh, learned counsel appearing for the respondent, contended that the Award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

9. It is seen from the records that the claimants, though in their claim petition had stated that the deceased was earning a sum of Rs.30,000/- per month, did not adduce any acceptable evidence to substantiate the same. Therefore, the Tribunal fixed the notional income of the deceased as Rs.11,000/-. The accident took place in the year 2017 and the deceased was aged just 37 years on the date of accident.



10. Considering the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.15,000/- would meet the ends of justice. As per the decision of the Supreme Court of India in ***National Insurance Co. vs Pranay sethi and others*** reported in ***2017 (2) TNMAC 601***, 40% should be added towards future prospects of the deceased. Since there are six dependents, 1/4th of the deceased's income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 15 as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another*** reported in ***(2009) 6 SCC 121***.

Calculation :

Notional Income = Rs.15,000/-

40% Future Prospects = Rs.6,000/-

Total = Rs.15,000/- + Rs.6,000/- = Rs.21,000/-

After 1/4 deduction = Rs.15,750/-

Loss of dependency :

= Rs.15,750/- x 12 x 15

= Rs.28,35,000/-



CMA.No.2679 of 2023

In addition to that the claimants are entitled to Rs.40,000/-, Rs.15,000/- and Rs.15,000/- and Rs.5,500/- for Loss of Consortium, Loss of Estate and Funeral Expenses and Transportation respectively as per the decision in *National Insurance Co. vs Pranay sethi and others* (cited supra). Thus, the claimants are entitled to a total compensation of Rs.31,10,500/- (28,35,000 + 2,40,000 + 15000 + 15000 + 5,500 = 31,10,500) which is extracted here under.

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.28,35,000 /-
2.	Loss of consortium (Rs.40,000/- x 6)	Rs.2,40,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
5.	Transportation	Rs.5,500/-
Total		Rs.31,10,500/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.23,81,500/- to Rs.31,10,500/- which would carry interest at the rate of 7.5% per annum.



CMA.No.2679 of 2023

12. In the result,

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- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.23,81,500/- to Rs.31,10,500/-.
- iii. The appellants / claimants are directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.
- iv. The respondent, the Metropolitan Transport Corporation Limited, is directed to deposit the enhanced compensation amount i.e., Rs.31,10,500/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.No.613/2018 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.
- v. On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by



CMA.No.2679 of 2023

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the Tribunal shall be kept intact. The share of the minor appellants 2 to 4 are directed to be deposited in any one of the Nationalised Bank till they attain majority. The 1st appellant being the mother of the appellants 2 to 4 is permitted to withdraw the accrued interest once in three months for the welfare of the minors. No costs.

09.08.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

To

- 1.The Motor Accidents Claims Tribunal,
IV Court of Small Causes, Chennai
2. The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan House, Anna Salai,
Chennai -2.
- 3.The Section Officer, VR Section, Madras High Court, Chennai.

R.HEMALATHA, J.



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CMA.No.2679 of 2023

vum

C.M.A.No.2679 of 2023

09.08.2024