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CMA.No.2195 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2195 of 2023

1. Anusuyamma
2. Someswara Rao
3. Karunamma

... Appellants

vs.

Metropolitan Transport Corporation,
rep. by its Managing Director,
Pallavan Salai,
Chennai - 600 002.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 13.11.2017 in M.C.O.P.No.1868/2015 on the file of the Chief Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai .

For Appellants : Mr.S.Suriyaprakash

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.1868/2015 on the file of the Chief Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai. They filed the claim petition under Section 166 of the



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Motor Vehicles Act, 1988 seeking compensation of Rs.50,00,000/- for the death of one Kopparao (husband of the first claimant and father of the claimants 2 and 3) in a road accident which happened on 18.12.2014.

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

On 18.12.2014, Kopparao (deceased) was travelling in a bus bearing registration number TN-01-N-4730 belonging to the respondent. He was proceeding towards Thirumullaivoyal. When the bus was nearing C.T.H Road, Thirumullaivoyal, the driver of the bus drove the bus in a rash and negligent manner, as a result of which, Kopparao (deceased) was thrown out of the bus and sustained injuries. He was immediately rushed to K.M.C.Hospital Chennai, however, he succumbed to injuries on the same day in the hospital.

3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN-01-N-4730 belonging to the respondent was the cause of the accident and therefore, the respondent is liable to pay compensation to them.

4. The Tribunal, after analysing the evidence on record, awarded



a compensation of Rs.11,90,056/- 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 13.11.2017.

5. Aggrieved over the orders passed by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act.

6. Heard Mr.S.Suriyaprakash, learned counsel appearing for the appellants and Mr.M.Murali Vinodh, learned counsel for the respondent.

7. Mr.S.Suriyaprakash, learned counsel appearing for the appellants contended that the deceased was aged 42 years on the date of the accident, earning a sum of Rs.15,000/- per month as a load man. However, the Tribunal had fixed a very meagre sum of Rs.8,000/- as his monthly notional income. He, therefore prayed for enhancing the income of the deceased. He further contended that the Tribunal has awarded a sum of Rs.40,000/- towards consortium to the first petitioner even though there are three dependents.

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. In the claim petition, it is contended that the deceased was earning a sum of Rs.15,000/- per month. The Tribunal fixed the notional income of the deceased as Rs.8,000/- p.m. It is pertinent to point out that the accident took place in the year 2014 and in the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.12,000/- 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, 25% is added towards future prospects of the deceased. Since there are three dependents, $\frac{1}{3}^{\text{rd}}$ of the deceased's income is deducted towards his personal expenses. The deceased was aged 42 years on the date of the accident and the proper multiplier to be adopted in the instant case is 14

as per the decision rendered in *Sarla Verma and others vs. Delhi*



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Transport Corporation and another reported in ***(2009) 6 SCC 121.***

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Calculation :

Notional Income	= Rs.12,000/-
After adding 25% Future Prospects	= Rs.15,000/-
After 1/3 deduction	= Rs.10,000/-

Loss of dependency :

$$\begin{aligned} &= \text{Rs.}10,000/- \times 12 \times 14 \\ &= \text{Rs.}16,80,000/- \end{aligned}$$

In addition to that the claimants are entitled to Rs.1,20,000/- (40,000 X 3), Rs.15,000/- and Rs.15,000/- towards Loss of Consortium, Loss of Estate and Funeral Expenses 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.18,30,000/- (16,80,000 + 1,20,000 + 15000 + 15000 = 18,30,000) as shown in the following tabular column:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.16,80,000 /-



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<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
2.	Loss of consortium (Rs.40,000/- x 3)	Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.18,30,000/-

11. The compensation awarded by the Tribunal is enhanced from Rs.11,90,056/- to Rs.18,30,000/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.11,90,056/- to Rs.18,30,000/-.
- 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.,



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Rs.18,30,000/- (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.1868/2015 on the file of the Chief Judge, Motor Accident Claims Tribunal, Small Causes Court, 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 the Tribunal shall be kept intact.

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

R.HEMALATHA, J.

vum



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To

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- 1.The Motor Accidents Claims Tribunal,
Small Causes Court, Chennai
2. Metropolitan Transport Corporation,
rep. by its Managing Director,
Pallavan Salai,
Chennai - 600 002.
- 3.The Section Officer, VR Section, Madras High Court, Chennai.

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