



C.M.A.No.3093 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.3093 of 2023

1.Malar
2.Sivakumar

...Appellant

Vs

Divisional Manager,
Tamil Nadu State Transport Corporation Ltd.,
Salamedu, Vazhuthareddy Post,
Villupuram.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award against the judgement and decree dated 10.08.2016 and made in M.A.C.T.O.P.No.72 of 2014 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai.

For Appellant : Mr.F.Terry Chella Raja

For Respondent : Mr.S.S.Santhosakumar



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal (Sub Court), Perambalur vide judgment dated 07.01.2019 in M.C.O.P.No.1006 of 2015.

2. Mr.S.S.Santhosakumar, learned counsel, takes notice on behalf of the respondent. By consent of the parties, the civil miscellaneous appeal is taken up for disposal at the admission stage itself.

3. The case of the appellants is that on 23.07.2014, while Vijayakumari/daughter of the appellants was riding her bicycle at Kallakurichi Road, the bus bearing Registration No.TN-32-N-4015, which was driven by its driver in a rash and negligent manner, had dashed against her and due to the said accident, she was died on the spot. Further, at the time of accident the deceased was only aged about 16 years and she was studying XI Standard. Hence, taking into consideration of all the aspects, the Tribunal had fastened the entire liability on the owner of the bus and awarded the compensation to the appellants in the following manner:



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S.No.	Heads	Compensation awarded
1	Loss of Income	6,48,000
2	Funeral Expenses	10,000
3	Loss of Love and Affection (2 persons)	20,000
	Total	6,78,000

4. The learned counsel for the appellants would submit that while awarding compensation, the Tribunal had fixed the notional income of the deceased as a sum of Rs.6,000/- and the same requires to be enhanced. Further, he would refer to the judgement of this Court in CMA.No.914 of 2023, etc., wherein, in a similar situation, the notional income of the deceased was fixed as a sum of Rs.9,000/-. Hence, he suggested this Court to fix the same amount as notional income of the deceased in the present case also.

5. The learned counsel for the respondent had also accepted the aforesaid submission of the appellants and request this Court to pass an appropriate order.

6. Heard the learned counsel for the appellants and the respondent and also perused the materials available on record.



7. In view of the above, this Court is inclined to fix the notional income of the deceased as a sum of Rs.9,000/- instead of Rs.6,000/-. Further, the future prospects of 40% has to be added to the said notional income and calculated as follows:

$$\text{Rs.9,000 (income) + Rs.3,600 (40\% of income) = Rs.12,600/-}$$

8. Out of the notional income of a sum of Rs.12,600/-, 50% has to be deducted towards the personal expenses of the deceased. In such case, the notional income of the deceased would come around a sum of Rs.6,300/-.

9. Further, since age of the deceased is 16 years, this Court is inclined to apply the multiplier of '18' as per the law laid down by the Hon'ble Apex Court and accordingly, the loss of income has to be calculated as follows:

$$\text{Rs.6,300(income) * 18(multiplier) * 12(months) = Rs.13,60,800/-}$$

10. As far as other heads are concerned, no amount was awarded by the Tribunal under the heads 'Transportation' and 'loss of estate'. Hence, this Court is inclined to award a sum of Rs.10,000/- towards Transportation and a sum of Rs.15,000/- towards loss of estate.



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11. Further, it appears that the Tribunal had awarded only a sum of Rs.10,000/- towards the funeral expenses, which is on the lower side. Hence, this Court is inclined to enhance the same and accordingly, a sum of Rs.15,000/- is awarded towards the funeral expenses of the deceased.

12. Further, the Tribunal had awarded only a sum of Rs.20,000/- under the head “loss of love and affection” to the appellants/parents of the deceased. However, as per the law laid down by the Hon'ble Apex Court, the Tribunal is supposed to have awarded a sum of Rs.40,000/- to each of the appellants. Hence, the compensation awarded towards the loss of love and affection stands increased from Rs.20,000/- to Rs.80,000/-.

13. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Income	6,48,000	13,60,800



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S.No.	Heads	Compensation awarded by Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
2	Transportation	Nil	10,000
3	Loss of Estate	Nil	15,000
4	Funeral Expenses	10,000	15,000
5	Loss of Love and Affection	20,000	80,000
	Total Compensation is fixed at	6,78,000	14,80,800

14. Therefore, the amount awarded by the Tribunal stands increased from a sum of Rs.6,78,000/- to 14,80,800/-. In all other aspects, the award of the Tribunal stands confirmed.

15. At this juncture, the learned counsel for the respondent would submit that there was a delay of 2321 days in filing the present appeal and hence, the appellants are not entitled for any interest for the said period of 2321 days.

16. In reply, the learned counsel for the appellants would submit that the said aspect was already considered by this Court vide order dated 29.11.2023, wherein this Court had condoned the delay of 2321 days in filing the present appeal and held that no interest will be awarded for the delay period of 2321



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days.

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17. In the result, this Civil Miscellaneous Appeal is allowed and the respondent/transport corporation is directed to deposit a sum of Rs.14,80,800/- along with interest and costs, less the amount already deposited, if any, (excluding the interest for delay period of 2321 days) within a period of 8 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.72 of 2014 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai. Upon such deposit, Tribunal is directed to immediately transfer the entire amount in the same proportions as ordered by the Tribunal, to the respective bank accounts of the claimants by way of RTGS, within a period of 3 weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

nsa

To:

The Motor Accident Claims Tribunal,
Chief Judicial Magistrate,
Thiruvannamalai

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