



WEB COPY



C.M.A. No. 1123 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No.1123 of 2022

and C.M.P. No.8239 of 2022

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
(Kumbakonam Division-I) Ltd.,
Kumbakonam.

... Respondent/ Appellant

Vs.

1. E. Pushpa
2. E. Saranya

... Petitioners/ Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 08.10.2021 made in M.C.O.P.No.2194 of 2017 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Cuddalore.

For Appellant : Mr. M. Murali Vinodh
(For Mr. D. Venkatachalam)

For Respondents : Ms. Ramya V. Rao



C.M.A. No. 1123 of 2022

WEB COPY

JUDGMENT

This Civil Miscellaneous appeal has been filed by the Tamil Nadu State Transport Corporation Limited, challenging the quantum of compensation awarded in M.C.O.P. No.2194 of 2017 dated 08.10.2021, on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Cuddalore.

2. For the sake of convenience, the parties are referred herein according to their litigative status and rank before the Tribunal. The brief facts leading to filing of this appeal is as follows:

3. The appellant - Transport Corporation is the respondent in the claim petition filed by the claimants, who are the respondents herein, seeking compensation for a sum of Rs.50,00,000/-, for the death of one Sridhar, who died on 20.03.2017 in a road accident involved by the driver of the TNSTC bus bearing Registration No.TN-68-N-0794, which belongs to appellant - Transport Corporation. The deceased Sridhar was working as a car driver, in a Private Travels, namely Anbu Travels and was earning



WEB COPY

Rs.24,000/- per month, was died due to the tortious act committed by the driver of the appellant - Transport Corporation. The major issue raised in this appeal is quantum of compensation fixed by the Tribunal.

4. The learned counsel appearing for the appellant/ Transport Corporation submits that, though the Tribunal has not accepted the evidence of P.W.3, who is the employer of the deceased, fixed the monthly notional income of the deceased as Rs.13,000/-, which is on the higher side. He also also submitted that the compensation awarded under other heads is also on the higher side and prays to reduce the quantum of compensation awarded by the Tribunal.

5. Per contra, the learned counsel appearing for the respondents/ claimants submits that even though, the employer of the deceased was examined and salary certificate of the deceased was also marked, the Tribunal has not accepted the same and fixed monthly notional income of the deceased as Rs.13,000/- and awarded compensation. She also submitted that even though, the monthly notional income fixed by the Tribunal is on the lower side, they have not preferred any appeal challenging the award,



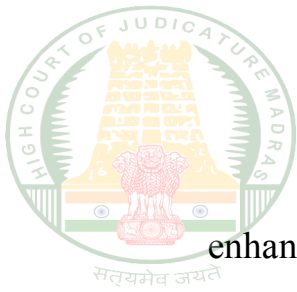
therefore, prays to dismiss this appeal.

WEB COPY

6. I have considered the submissions made on both sides and perused the entire materials available on record.

7. Admittedly, the Tribunal has rejected the evidences adduced by the claimants, to prove the income. The Tribunal by considering the nature of avocation, date of accident and age of the deceased, adopted notional income method and fixed Rs.13,000/- as monthly income of the deceased. This Court in catena of cases, follows a sum of Rs.13,000/- as notional monthly income of a driver, who died in a road accident taken place in the year 2017, therefore, this Court finds the notional income fixed by the Tribunal is proper and requires no interference.

8. Further, the Tribunal has awarded Rs.15,000/- each under the conventional heads, such as loss of estate and Funeral expenses, however, the Tribunal has not awarded compensation under the head consortium. The claimants though not preferred any appeal or filed cross objections, it is well settled principle that, though the claimants have not sought for



enhancement of compensation, the Court is entitled to award just

compensation. The Hon'ble Apex Court in **Anjali and Ors. Vs. Lokendra**

Rathod and Ors. [2023 (1) TNMAC 1 : 2023 ACJ 637] has illustrated 'just

and fair' compensation in paragraph 10, which reads as follows:

“10. The provisions of the Motor Vehicles Act, 1988 (for short, "MV Act") gives paramount importance to the concept of 'just and fair' compensation. It is a beneficial legislation which has been framed with the object of providing relief to the victims or their families. Section 168 of the MV Act deals with the concept of 'just compensation' which ought to be determined on the foundation of fairness, reasonableness and equitability. Although such determination can never be arithmetically exact or perfect, an endeavor should be made by the Court to award just and fair compensation irrespective of the amount claimed by the applicant/s. In Sarla Verma and Ors. v. Delhi Transport Corporation and Anr. MANU/SC/0606/2009 : (2009) 6 SCC 121, this Court has laid down as under:

16...."Just compensation" is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit.”

9. In view of the above, if the compensation quantified is lesser than that of a just compensation, this Court is entitled to modify the same and award Just compensation. Considering the above, this Court is inclined



to award Just compensation. The first claimant, who is the mother of the deceased is entitled for Rs.40,000/- under the head loss of consortium. In other aspects, the award of the Tribunal is hereby confirmed.

10. Accordingly, the award passed by the Tribunal under various heads are hereby modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced
1.	Loss of income	26,20,080/-	26,20,080/-	Confirmed
2.	Loss of estate	15,000/-	15,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of consortium	---	40,000/-	Granted
	Total Compensation	26,50,080/-	26,90,080/-	Enhanced

11. In the result, this Civil Miscellaneous Appeal is disposed of and the compensation awarded by the Tribunal at Rs.26,50,080/- is hereby **enhanced to Rs.26,90,080/- [Rupees Twenty Six Lakh Ninety Thousand and Eighty only]** together along with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default period, if any. The appellant - Transport Corporation is directed to deposit the amount awarded by this Court along with interest and costs,



C.M.A. No. 1123 of 2022

excluding the default period and less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.2194 of 2017 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, Cuddalore. On such deposit, the first respondent/ claimant, who is the mother of the deceased is permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the first respondent/ claimant. Consequently, connected civil miscellaneous petition stands closed. There shall be no order as to costs in the present appeal.

13.12.2024

stn

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No

K. RAJASEKAR, J.

stn



C.M.A. No. 1123 of 2022

To:
WEB COPY

1. The Principal Sub Judge,
Motor Accident Claims Tribunal,
Cuddalore.
2. The Section Officer,
V.R.Section,
High Court, Chennai.

C.M.A. No.1123 of 2022

13.12.2024