



C.M.A.No.2173 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

CORAM

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI,J.**

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1.Venugopal
2.Minor Manoharan,
S/o.Venugopal,
Minor Represented by his next friend and
Natural Guardian Father Venugopal.

...Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
12, Ramakrishna Road, Salem-7

...Respondent

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, to allow the present appeal and to set aside the judgment and decree dated 15.02.2019 passed in M.C.O.P.No.1691 of 2017, on the file of the Special District Court (II Additional District Judge, FAC, Motor Accident Claims Tribunal, Salem), and to enhance the award amount.

For Appellant : Mr.Amar D.Pandiya
for M/s.M.Mohamed Riyaz

For Respondents : Mr.D.Raghu



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JUDGMENT

The above Civil Miscellaneous Petition is directed against the award and decree dated 15.02.2019 passed in M.C.O.P.Nos.1691 of 2017 on the file of the Special District Court (II Additional District Judge, FAC, Motor Accident Claims Tribunal) Salem,

2.Shortly stated,Shortly stated, on 07.06.2017 at about 5.30 pm, when the deceased was travelling as a pillion rider with his son in a two wheeler bearing Registration No.TN 54 H 5281 on Attur to Salem main road from Udayapatty to Ayodiapattanam from west to east, a TNSTC bus bearing Reg.No.88A TN 30 N 0304 came from Ayodhiapattanam to Salem, on the opposite side in a rash and negligent manner and hit the deceased's vehicle. As a result of which the wife and the son of the 1st claimant who are the mother and brother of the 2nd claimant died on the spot. The bus driver is directly responsible for the accident. A criminal case was registered against the driver of the vehicle by the Ammapet Police in Crime No.381/2017 under Section 279 &304 (A) of IPC. The deceased aged about 38 years. She was working as



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labour in Kandhagiri Spinning Mills (P) Ltd., and was earning Rs.20,000/- per month. She was very hale and healthy at the time of accident. She was the only earning member in the family. The entire family was maintained by her. Due to the sudden death, the petitioners sustained heavy loss and the entire family was put into darkness. Hence, the legal heirs of the deceased claimed a compensation at Rs.25,00,000/- for the death of the deceased.

3. The claim of the claimants was resisted on the side of the respondent by stating that the driver of the Corporation/bus was not responsible for the accident. It is also stated that the claim made by the claimants is exorbitant. Hence, the petition is liable to be dismissed.

4. Before the trial Court, on the side of the claimants P.W.1 to P.W.2 were examined and marked Ex.P1 to Ex.P16. No oral and documents were marked on the side of the respondents.

5. Based on the materials available on record, the trial Court, accordingly framed three points for consideration and came to the conclusion



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that the accident took place as alleged and claimants are entitled to claim compensation from the respondent. The compensation of Rs.15,82,000/- has been awarded carrying interest at the rate of 7.5% per annum. Aggrieved by this, the claimants have preferred the present appeal assailing the impugned order passed by the Tribunal.

6. Through this appeal, award has been challenged on the ground that the compensation awarded by the learned Tribunal is very low. According to the claimants, the income of the deceased has not been fixed properly by the Tribunal. Since at the time of the accident, the deceased was working as labour in Kandhagiri Spinning Mills Private Limited and was very hale and healthy at the time of accident and was earning Rs.20,000/- per month. However, the Tribunal has fixed the income at Rs.9,000/-which is inadequate. There is no dispute with regard to the manner of accident as alleged by the claimants. The findings of the Tribunal in this regard is confirmed. The dispute is only with regard to the income of the deceased.

7. The learned counsel Mr.Amar D.Pandiya appearing for the



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claimants, would submit that the accident took place in the year 2017. The deceased was working as labour in Kandhagiri Spinning Mills Private Limited and was earning a sum of Rs.20,000/- per month. Therefore, the meagre amount of salary fixed by the Tribunal requires interference by this Court.

8.On the other hand, Mr.D.Raghu learned counsel appearing for the respondent/Transport Corporation would submit that the Tribunal has rightly fixed the income of the deceased and therefore, it does not require any interference. However, this Court found some substance in the contention made by the learned counsel appearing for the claimants that at the relevant point of time, the income of the deceased would be more than Rs.9,000/-. Hence, this Court finds that it would be appropriate to fix the income of the deceased at the rate Rs.15,000/- per month. Accordingly, the compensation on the other heads are confirmed.

9.The fact that the deceased at the time of the accident was working



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as labour in a Spinning Mill is not in dispute. But there is no sufficient proof to establish that the deceased was earning Rs.20,000/- per month. Considering the facts and circumstances of this case and the age of the deceased and the year the accident took place, this Court deems it appropriate to fix the monthly income of the deceased at Rs.15,000/- per month with 40% for future prospect. Admittedly, there are two dependence. Consequently, annual dependency after deduction of 1/3rd towards personal expenses and multiplied by 15, loss of income to the petitioners, comes to Rs.25,20,000/-. On perusal of the impugned order, it is seen that the Tribunal has awarded an amount of Rs.40,000/- under the head 'love and affection' which is enhanced to a sum of Rs.80,000/- awarded as compensation under the head 'love and affection' (40,000x2).The other sums awarded to the claimants are confirmed.

10. Therefore, this Court finds it reasonable, to enhance the compensation as follows:

S. N o	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
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1.	Los of Income	15,12,000	25,20,000	Enhanced
2.	Loss of Love and Affection	40,000	80,000	Granted
3.	Funeral Expenses	15,000	15,000	Confirmed
4.	Loss of estate	15,000	15,000	Confirmed
	Total	Rs.15,82,000/-	Rs.26,30,000/-	enhanced by Rs.10,48,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.15,82,000/- is hereby enhanced to Rs.26,30,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondent is directed to pay the above said compensation amount now determined by this Court to the claimants along with interest and costs, less the amount already deposited, if any, within a period of eight (8) weeks from the date of receipt of copy of this judgment. On such deposit, the 1st claimant being the father of the deceased is entitled to Rs.16,30,000. The 2nd claimant being the minor brother of the deceased is entitled to Rs.10,00,000/-. The Share amount of the minor claimant shall be invested in any one of the Nationalized Banks until he attains majority and 1st claimant being the father of the minor claimant is



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permitted to withdraw the interest accrued on the share of the minor claimant once in six months for the maintenance and welfare of the minor claimant. The claimants are directed to pay the necessary Court fee, if any for the enhanced award amount. No costs.

25.10.2024

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order



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To

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1. The II Additionl District Judge, Motor Accident Claims Tribunal
(Special District Court , FAC)Salem

2. The Section Officer,
VR Section,
High Court, Madras.

K.GOVINDARAJAN THILAKAVADI, J.

vsn



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