



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1628 of 2024

1.Thirupura Sundari
2.N.Gopinath
3.N.Eswaran

... Appellants

.VS.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan Salai,
Chennai – 600 002.

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 16.12.2022 made in MCOP No.2343 of 2019 on the file of the Motor Accident Claims Tribunal, (In the IV Court of Small Causes), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Mr.A.Vinothraj
Standing Counsel

JUDGMENT

The claimants who are the wife and two sons of late Nedumaran not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.2343 of 2019, dated 16.12.2022, have filed this appeal seeking for enhancement of compensation.



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2.The case of the claimants is that the deceased Nedumaran was travelling as a passenger in the bus belonging to the respondent Corporation on 18.03.2019, from Egmore to Vinayakapuram and at about 12:45 hours, the deceased was trying to get down from the bus and the driver without noticing the same, started the bus and as a result, the deceased fell down and sustained grievous injuries and he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the respondent Corporation. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.6,29,820/- (rounded off Rs.6,30,000/-) under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	4,59,320
2.	Loss of Consortium	1,32,000
3.	Loss of Estate	16,500
4.	Funeral Expenses	16,500
5.	Transportation Expenses	5,500
	Total	6,29,820
	Rounded Off	6,30,000



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4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal have filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.K.Varadha Kamaraj, learned counsel appearing on behalf of the appellant and Mr.A.Vinoth, learned Standing Counsel appearing on behalf of the respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.The main ground that was raised is with regard to the monthly income that was fixed by the Tribunal at Rs.11,483/-. The claimants came up with a case that the deceased was drawing a pension of nearly Rs.20,000/- and he was also working as a security guard in a private concern and was earning a salary of Rs.18,000/- The Tribunal on appreciation of the documents available before the Court found that the deceased was drawing a pension to the tune of Rs.22,967/- On his demise, his wife



who is the 1st claimant will draw a family pension which will be 50% of the total pension amount. Accordingly, the Tribunal fixed a sum of Rs.11,483/- towards loss of income.

9.Considering the fact that the deceased was aged about 66 years and he was also a retired police officer, he working as a security guard cannot be completely ruled out. In view of the same, this Court is inclined to fix the loss of income at Rs.13,000/- per month.

10.In view of the above, compensation under the loss of income/dependency is calculated as follows:

$$13000 \times 12 \times 5 \times \frac{2}{3} = \text{Rs.}5,20,000/-$$

11.The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

12.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	5,20,000
2.	Loss of Consortium	1,32,000
3.	Loss of Estate	16,500
4.	Funeral Expenses	16,500
5.	Transportation Expenses	5,500
	Total	6,90,500

13.The compensation awarded by the tribunal at Rs.6,30,000/- is enhanced to Rs.6,90,500/-. The respondent transport corporation is directed to deposit the enhanced compensation of Rs.6,90,500/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.60,500/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 333 days as was ordered by this Court in C.M.P.No.9105 of 2024, dated 14.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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N. ANAND VENKATESH., J

SSR

14.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

11.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accident Claims Tribunal, (In the IV Court of Small Causes),
Chennai.

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