



C.M.A. No. 1923 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No. 1923 of 2021

1. P.Parvathi
2. Minor sharveenraj
3. Minor Baby Shalini

[Minor appellants represented by their mother
P.Parvathi, the first appellant herein]

4. Adhilakshmi

... Appellants / Petitioners

Vs.

The Managing Director,
Tamil Nadu Sate Transport Corporation,
(Villupuram-Divn.I) Ltd.,
3/137, Salamedu, Vazhuthareddy,
Villupuram- 605602.

... Respondent / Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 30.11.2020 passed in M.C.O.P. No.2208 of 2015 on the file of the Motor Accident Claims Tribunal, Principal District Court, Cuddalore.



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For Appellants : Mr.V.Rao
For Respondent : Mr.T.Chandrasekaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of compensation awarded in M.C.O.P. No.2208 of 2015, dated 30.11.2020 on the file of the Motor Accident Claims Tribunal, Principal District Court, Cuddalore, for the death of the deceased Paramesh.

2. The parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The claimants herein are the dependents of the deceased one Paramesh, Son of Meyyazhagan, who was the owner cum driver of Tata Ace goods vehicle and also manufacturer and seller of chamber bricks. On 07.04.2015 at about 19.15 hours, while the deceased Paramesh was riding his two-wheeler namely TVS XL Super bearing Registration No.TN 31 E 4167 on the Panruti to Cuddalore Main Road from East to West direction, while he reached near motor shed of Jayapal, Thiruvathigai, a bus bearing Registration No.TN 32 N 3019 came behind him in rash and negligent



manner and dashed the two-wheeler of the deceased. The deceased sustained fatal injuries and died on the spot. In this regard, a criminal case was also registered against the driver of the bus in Crime No.19 of 2015 by the SHO Panruti Police. The dependents who are the wife, minor children and mother of the deceased filed claim petition under Section 166(1) of the Motor Vehicles Act, claiming compensation of Rs.75,00,000/- for the death of the deceased Paramesh. The deceased was aged about 37 years and was earning a sum of Rs.50,000/- per month.

4. The respondent – Transport Corporation has filed their counter and disputed the negligent act of the deceased and also disputed the age, income, avocation and dependency of the deceased and other aspects also. Hence prays to dismiss the claim.

5. Based on the evidences placed on record, the Tribunal has quantified the compensation and awarded a sum of Rs.16,12,000/- along with interest at the rate of 8% per annum as compensation.

6. Aggrieved over the quantum of compensation awarded by



the Tribunal, this Appeal has been filed by the claimants only on the ground that the Tribunal has not properly fixed the notional income while awarding compensation.

7. The only grievance raised by the learned counsel for the claimants is that the notional income fixed by the Tribunal was not proper and inspite of evidence placed on record, the Tribunal has fixed the notional income of Rs.8,000/- which is on the lower side. Hence, prays to enhance the compensation.

8. The learned counsel for the Transport Corporation has submitted that before the Tribunal, the claimants have not proved the income of the deceased. Based on the evidence of P.W.1, the Tribunal has held the notional income of the deceased, notionally to be fixed only as Rs.8,000/ and the same is proper and reasonable and prays to confirm the same.

9. I have heard the rival submissions made on both sides and also perused the records available.

10. Eventhough, the claimants have claimed that the



deceased was earning a sum of Rs.50,000/- per month by operating TATA ACE Goods vehicle and also by driving one such vehicle. In the cross examination, it was elicited that they were not able to produce any income proof including income-tax returns. Ex.P6 - Driving Licence of the deceased shows that the deceased is eligible to drive the goods vehicle and it was accepted by the Tribunal. Admittedly, no income proof has been produced before the Tribunal.

11. The Tribunal, based on the evidences placed on record fixed the monthly income of the deceased as Rs.8,000/- per month. This Court finds no infirmity in adopting notional income. Since the deceased herein is a driver by profession and fixing the monthly income of Rs.8,000/- per month for the accident taken place in the year 2015 is on the lower side, this Court is of the view that a sum of Rs.12,500 per month as notional income of the deceased would be proper. The Tribunal has rightly awarded 40% future prospects of the deceased as per the dictum laid down in ***National Insurance Company Limited vs. Pranay Sethi and Others [2017 (2) TN MAC 609]***, and also rightly applied multiplier '15' as per the Judgment of the Hon'ble Apex Court in ***Sarla Verma and Others vs. Delhi***



Transport Corporation and Another [2009 (2) TNMAC 1 SC : 2009 (6)

SCC 121] since he is aged about 37 years at the time of accident, which has been proved by the driving licence of the deceased. The dependents of the deceased in this case are four in number hence the Tribunal has rightly deducted 1/4 as the personal expenses of the deceased. Accordingly the compensation awarded under the head loss of dependency is modified as follows: $[12500 + 5000 (40\% \text{ of } 12500) = 17500 \times 12 \times 15] = 3150000 - 787500 = \text{Rs.}23,62,500/-]$.

12. The Tribunal has awarded a sum of Rs.70,000/- under conventional heads such as loss of consortium, funeral expenses and loss of Estate and also separately awarded a sum of Rs.30,000/- under the head loss of love and affection. Considering the Judgment of the Hon'ble Apex Court in ***Pranay Sethi*** case cited supra and in ***Magma General Insurance Co. Ltd., vs. Nanu Ram and Others [2018 (18) SCC 130 : MANU/SC/1012/2018]*** this Court modifies the compensation awarded under the heads and granted a sum of Rs.40,000/- to the each claimants for the head loss of consortium and a sum of Rs.15,000/- each under the heads loss of Estate and Funeral Expenses respectively.

13. 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 dependency	Rs.15,12,000/-	Rs.23,62,500/-	Enhanced
2	Loss of Love and Affection	Rs.30,000/-	---	Rejected
3	Loss of Consortium	Rs.40,000/-	Rs.1,20,000/-	Modified
4	Loss of Estate	Rs.15,000/-	Rs.15,000/-	Confirmed
5	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	Total Compensation	Rs.16,12,000/-	Rs.25,12,500/- -	Enhanced by Rs.9,00,500/-

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.16,12,000/- is hereby enhanced to Rs.25,12,500/- [Rupees Twenty Five Lakhs Twelve Thousand and Five Hundred only] together 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 Respondent – Transport Corporation is directed to deposit the amount now awarded by this Court along with interest and costs, 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.2208 of 2015 on the file of the Motor Accidents Claims



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Tribunal, Principal District Court, Cuddalore. On such deposit, the appellants/claimants are permitted to withdraw the amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the claimant. The share of the minor appellants are directed to be deposited in any one of the Nationalized Bank till the minor appellants attains majority. On such deposit, the first claimant being the mother of the minor claimants is permitted to withdraw the accrued interest once in three months for the welfare of the minor appellants. Since this Court has enhanced the compensation the appellants/claimants are directed to pay necessary Court fee on the enhanced compensation. In other aspects the award of the Tribunal shall stands confirmed. There shall be no order as to costs in the present appeal.

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No

To:

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

K. RAJASEKAR, J.

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