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CMA No.1101 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1101 of 2024

1.K.Parthiban

2.K.Yashwanth

(Minor rep.by his father and
natural guardian Mr.K.Parthiban)

.. Appellants

.Vs.

The Metropolitan Transport Corporation Limited
Rep. By its Managing Director
Pallavan House
Anna Salai
Chennai 600 002.

.. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 02.01.2024 made in MCOP No.189 of 2022, on the file of the Motor Accident Claims Tribunal, Chennai, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.K.Balaji

For Respondent : Mr.M.Murali Vinodh



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JUDGMENT

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The claimants who are the husband and minor child of the deceased not being satisfied with the quantum of compensation have filed the present appeal against the award passed by the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai, in MCOP.No.189 of 2022, dated 02.01.2024.

2.The case of the claimants is that the deceased Simra was travelling as a pillion rider in a two wheeler on 28.12.2021, which was driven by her brother. The vehicle was going from Chengalpattu to Chennai and at about 16.35 hours when the vehicle came near SRM Medical College, the Bus belonging to the respondent Transport Corporation was driven in a rash and negligent manner. It dashed on the two wheeler as a result of which, the claimant was thrown out of the vehicle and she sustained grievous injuries and died on the spot. 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.



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4.The Tribunal having rendered the above finding proceeding to fix the total compensation at Rs.19,82,800/- [rounded off to 19,83,000/-] under various heads as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income/Dependency Rs.11,200 * 12 * 18 * 2/3	16,12,800/-
2.	Loss of 5 months fetus in the womb	2,50,000/-
3.	Loss of Estate	15,000/-
4.	Loss of Consortium Rs.40,000/- (each) *2	80,000/-
5.	Funeral Expenses	15,000/-
6.	Transport Expenses	10,000/-
	Compensation payable	19,82,800/-
	Rounded off to	19,83,000/-

5.The above compensation was directed to be paid with interest at the rate of 7.5% p.a.

6.The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal seeking for enhancement of compensation.

7.Heard Mr.K.Balaji, learned counsel for the appellants and Mr.M.Murali Vinodh, learned counsel for respondent – Transport Corporation.



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8.This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the award passed by the Tribunal.

9.The main ground that was urged by the learned counsel for the appellants pertained to the notional monthly income that was fixed by the Tribunal at Rs.8000/-. The accident had taken place on 28.12.2021 and the deceased was a home maker aged out 22 years and she was five months pregnant at the time of the accident. She has left behind her husband with a toddler aged about two years. The Tribunal has fixed the notional monthly income at Rs.8,000/-, which is on the lower side. Hence, this Court is inclined to fix a sum of Rs.17,000/- as notional monthly income. 40% can be added towards future prospects. Thus, the compensation under the head loss of income/dependency is calculated as follow:

Monthly income fixed	:	Rs.17,000/-
Future prospects to be added	:	40%
Notional monthly income arrived at	:	Rs.17,000/- + 25%
		Rs. 6,800/-

		Rs.23,800/-
Multiplier to be adopted	:	18
Loss of income/dependency :	$23,800/- * 12 * 18 * \frac{2}{3}$	
	:	Rs.34,27,200/-

10.The compensation that has been fixed under the other heads are



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reasonable and it does not require the interference of this Court.

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11. In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income/Dependency Rs.23,800/- * 12 * 18 * 2/3	34,27,200/-
2.	Loss of 5 months fetus in the womb	2,50,000/-
3.	Loss of Estate	15,000/-
4.	Loss of Consortium Rs.40,000/- (each) *2	80,000/-
5.	Funeral Expenses	15,000/-
6.	Transport Expenses	10,000/-
	Total	37,97,200/-

12. The compensation awarded by the Tribunal at Rs.19,83,000/- is enhanced to Rs.37,97,200/-. The respondent - Transport Corporation is directed to deposit the enhanced compensation, less the amount already deposited, together with interest @ 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 is concerned, the deficit court fee, if not paid, shall be paid by the appellants/claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

N. ANAND VENKATESH., J



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13.In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

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

To

Chief Judge
Motor Accident Claims Tribunal, Chennai
Court of Small Causes, Chennai.

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