



C.M.A.No.2064 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 12.03.2024	Pronounced on 28.03.2024
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2064 of 2021

1.Valarmathi

W/o.G.Rajaarman @ Rajaram

2.R.Latchumanan

S/o.G.Rajaarman @ Rajaram

3.V.Pasamalar

W/o.Velavan

4.R.Karhtikeyan

S/o.G.Rajaarman @ Rajaram

5.K.Sangumalar

W/o.Kotpulichozhan

Petitioners all are permanently residing at

Thaikal Main Road, Karikuppam

Pudukuppam, C Pudukpettai, Bhuvanagiri Taluk

Now residing at

Main Road, Alapakkam and Post

Cuddalore Taluk.

... Appellants

Vs.

The Managing Director

Tamil Nadu State Transport Corporation

(VPM Divn.I) Ltd.,



C.M.A.No.2064 of 2021

No.3/137, Salademu, Vazhuthareddy Post
Villupuram 605 401.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in MCOP.No.1949 of 2018 dated 27.04.2021 on the file of the Motor Accident Claims Tribunal/1st Additional District & Sessions Judge, Cuddalore.

For Appellants : Ms.Ramya V Rao

For Respondents : Mr.C.R.Suresh Kumar

J U D G M E N T

The Appeal has been filed against the Judgment and Decree in MCOP.No.1949 of 2018 dated 27.04.2021 on the file of the Motor Accident Claims Tribunal/1st Additional District & Sessions Judge, Cuddalore.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.1949 of 2018 on the file of the Motor Accident Claims Tribunal/1st Additional District & Sessions Judge, Cuddalore. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.



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3.The legal representatives of the deceased G.Rajaraman @ Rajaram filed MCOP.No.1949 of 2018 on the file of the Motor Accident Claims Tribunal/1st Additional District & Sessions Judge, Cuddalore, seeking compensation and filed this Appeal on the point of quantum.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the Respondent's vehicle are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the Respondent's vehicle is hereby confirmed.

5.During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P1 to Ex.P10 were marked and on the side of the Respondents, RW1 was examined and Ex.R1 was marked.

6.Heard the learned counsel appearing on behalf of the claim Petitioners and the learned counsel appearing on behalf of the Transport Corporation.



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7.The Transport Corporation has neither filed any Appeal challenging the finding rendered by the Tribunal as to the rash and negligence nor file any Cross Objection Petition.

8.In this Appeal, the only point for consideration is quantum. As per Ex.P.4/Post mortem certificate, the deceased was aged about 65 years at the time of the accident and hence as per the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma & Others .Vs. Delhi Transport Corporation & another***, reported in ***2009 (2) TNMAC 1 (SC)***, right multiplier is “7” for the age of the deceased.

9.The Tribunal has fixed the monthly income at Rs.6,000/-. As per the Division Bench's judgment of this Court in the case of ***Andal & Others Vs. Avinav Kannan and others*** reported in ***2019(1) TNMAC 54 (DB)*** , the notional income comes to Rs.13,302/- (Rs.6500 x 264/129). Hence, I am inclined to fix the income at Rs.12,000/- per month. Since the deceased is self employed and he is aged about 65 years at the time of the accident, the question of future prospects does not arise. The number of family members of the deceased is 5



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and therefore, $\frac{1}{4}^{\text{th}}$ has to be deducted towards personal expenses of the deceased. Therefore, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.12,000/-} \times 12 \times 7 \times \frac{3}{4} = \text{Rs.7,56,000/-}$$

10.The Tribunal has awarded a sum of Rs.40,000/- towards loss of consortium, a sum of Rs.25,000/- towards loss of love and affection, a sum of Rs.10,000/- towards transport expenses and a sum of Rs.10,000/- towards funeral expenses, which are just and proper and the same are hereby confirmed.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	756000
2	Loss of consortium	40000
3	Loss Love and affection	25000
4	Funeral expenses	10000
5	Transportation	10000
	Total Compensation	841000

In total, the claim Petitioners are entitled to a sum of Rs.8,41,000/- (Rupees eight lakh and forty one thousand only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.



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11.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.4,63,000/- to Rs.8,41,000/- to the extent indicated above. No Costs.

(ii) the Transport Corporation is directed to deposit the enhanced award amount, with 7.5% interest per annum and costs before the Tribunal, within a period of twelve weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, all the claim Petitioners/Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

(iv) the claim Petitioners are directed to pay the court fee, if any, for the



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enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

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28.03.2024

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

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To
The 1st Additional District & Sessions Judge
Motor Accident Claims Tribunal
Cuddalore.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 28.03.2024