IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **02.07.2024**

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**THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE**

**C.M.A.No.3315 of 2021**

1.Revathy
2.Dinesh Kumar
3.Minor Prem Kumar
4.Minor Prasanth Kumar
(Minor appellants 3 and 4 represented by
their mother and guardian and
next friend Mrs.Revathy) ... Appellants

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan House,
Anna Salai,
Chennai - 600 002. ... Respondent

**PRAYER:** Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 26.09.2018 made in M.C.O.P. No.123 of 2017 on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruvallur.

For Appellants : Mr.F.Terry Chella Raja

For Respondent : Mr.A.Vinoth Raj

## JUDGMENT

This appeal has been filed by the claimants, seeking for enhancement of compensation. Mr.J.Rajendran, died as a result of an accident caused by a bus owned by the respondent Transport Corporation. The Tribunal under the impugned award directed the respondent Transport Corporation to pay the appellants / claimants, who are the dependants of J.Rajendran, a total compensation of Rs.7,88,500/- as detailed hereunder:

| ***Heads*** | ***Amount awarded by the Tribunal in Rs.*** |
|---|---:|
| Loss of Dependency | 6,43,500 |
| Loss of Consortium | 40,000 |
| Love and affection | 75,000 |
| Loss of estate | 15,000 |
| Funeral expenses | 15,000 |
| **Total** | **7,88,500** |

2. The Tribunal has assessed the notional monthly income of the deceased J.Rajendran at Rs.6,500/-. According to the appellants / claimants, the deceased J.Rajendran was doing fabrication work and his age was 52 years at the time of the accident. In the claim petition, the appellants / claimants had pleaded that the deceased was earning Rs.20,000/- per month. However, the Tribunal has fixed the notional monthly income of the

deceased at Rs.6,500/-. The accident happened in the year 2017 (i.e., on 26.08.2017). Though no documentary evidence was produced by the appellants / claimants to prove the notional monthly income of the deceased, this Court is of the considered view that even on notional basis, the Tribunal ought to have fixed the notional monthly income of the deceased at a higher sum, after giving due consideration to the year of the accident, which admittedly happened in the year 2017.

3. Though the learned counsel for the respondent Transport Corporation would submit that since the deceased was aged 52 years, the Tribunal has rightly assessed the notional monthly income of the deceased at Rs.6,500/-, this Court is of the considered view that eventhough the deceased may have been aged 52 years at the time of the accident, the Tribunal ought to have given due consideration to the year of the accident. Even if a person is aged 52 years, as a person doing fabrication work, he would have earned a minimum of Rs.14,000/- in the year 2017. Even for an accident in the year 2008, the Honourable Supreme Court has fixed for a vegetable vendor, the notional monthly income at Rs.6,500/-. After giving due consideration to the aforementioned factors, this Court as observed

supra, is enhancing the notional monthly income of the deceased fixed by the Tribunal from Rs.6,500/- to Rs.14,000/-.

4. The Tribunal also failed to grant loss of future prospects to the appellants / claimants, which they are legally entitled to as per the settled law. Since the deceased was aged 52 years, the Tribunal ought to have awarded 10% to the appellants / claimants towards loss of future prospects, but has erroneously failed to award the same in the impugned award. This Court is adding 10% towards loss of future prospects to the appellants / claimants. The 1/4th deduction and the multiplier of 11 has been rightly applied by the Tribunal while calculating the loss of dependency. Since this Court has enhanced the notional monthly income of the deceased as fixed by the Tribunal from Rs.6,500/- to Rs.14,000/- and also awarding 10% towards loss of future prospects, the loss of dependency is re-assessed by this Court in the following manner and the appellants / claimants are entitled to a sum of Rs.15,24,600/- as detailed hereunder instead of Rs.6,43,500/- as erroneously fixed by the Tribunal:

**Calculation of Loss of Dependency:**

| **Loss of Dependency** | ***Amount in Rs.*** |
|---|---|
| Monthly Income | 14,000 |
| Add: Future prospects @ 10% | 1,400 |
| | 15,400 |
| Less: Deduction @ 1/4th ( Rs.15,400/- x 1/4 ) | 3,850 |
| | 11,550 |
| Annual Income (multiply by 12) | 1,38,600 |
| Multiplier 11 | **15,24,600** |

5. This Court is also enhancing the compensation towards loss of love and affection to Rs.1,20,000/- calculated at Rs.40,000/- for each of the sons of the deceased who are the appellant Nos.2, 3 and 4 instead of Rs.75,000/- erroneously fixed by the Tribunal which was calculated at Rs.25,000/- for each of the sons of the deceased. It is settled law that the compensation payable towards loss of love and affection is Rs.40,000/- to each of the dependents.

6. This Court is confirming the compensation awarded by the Tribunal towards loss of consortium to the wife of the deceased at Rs.40,000/- and is also confirming the compensation awarded by the Tribunal towards loss of estate at Rs.15,000/- and towards funeral expenses at Rs.15,000/- as the said compensation has been granted only in accordance

with the settled law.

7. For the foregoing reasons, the compensation payable by the respondent Transport Corporation is re-worked in the following manner:

| *Heads* | *Amount awarded by the Tribunal in Rs.* | *Amount awarded by this Court in Rs.* |
|---|---|---|
| Loss of Dependency | 6,43,500 | 15,24,600 |
| Loss of Consortium | 40,000 | 40,000 |
| Love and affection | 75,000 | 1,20,000 |
| Loss of estate | 15,000 | 15,000 |
| Funeral expenses | 15,000 | 15,000 |
| **Total** | **7,88,500** | **17,14,600** |

8. In the result, this Civil Miscellaneous Appeal is **partly allowed** by enhancing the award amount from **Rs.7,88,500/-** to **Rs.17,14,600/-**. The respondent Transport Corporation is directed to deposit the enhanced award amount of **Rs.17,14,600/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.123 of 2017** on the file of the **Motor Accidents Claims Tribunal, Special District Court, Tiruvallur**, within a period of **four weeks** from the date of receipt of a copy of this judgment.

9. The appellants / claimants are permitted to withdraw the said amount, once it is deposited by the respondent Transport Corporation, by filing an appropriate application before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.123 of 2017** to the bank account of the appellant directly through RTGS, within a period of **one week** thereafter. No costs.

**02.07.2024**

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Motor Accidents Claims Tribunal, Special District Court, Tiruvallur.

2. The Section officer, Record Section, High Court of Madras.

**ABDUL QUDDHOSE. J.,**

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**C.M.A.No.3315 of 2021**

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