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C.M.A.No.1199 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1199 of 2023

1. Dhanam
2.Varadhan

.. Appellants

..Vs..

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

.. Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 15.12.2022 made in M.C.O.P.No.289 of 2019 by the learned Motor Accident Claims Tribunal/(IV Court of Small Causes, Chennai).

For Appellant : Ms.Ramya V.Rao

For Respondent : Mr.Murali Vinodh
Standing Counsel

J U D G M E N T



This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 15.12.2022 made in M.C.O.P.No.289 of 2019 on the file of the Motor Accident Claims Tribunal/IV Judge, Court of Small Causes, Chennai.

2. The appellants are the claimants in M.C.O.P.No.289 of 2019 on the file of *Motor Accidents Claims Tribunal, IV Judge, Court of Small Causes, Chennai*. They filed the above said claim petition, claiming a sum of **Rs.30,00,000/-** as compensation for the death of one Haridoss, who died in an accident that took place on 24.12.2018.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the respondent and directed the Respondent-Transport Corporation to pay a sum of **Rs.15,12,500/-** as compensation to the appellants.

4.Not being satisfied with the amount awarded by the Tribunal, the



appellants have come out with the present appeal seeking enhancement of compensation.

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5.Though several grounds have been raised in this Civil Miscellaneous appeal for enhancement of the compensation, the learned counsel for the appellants restricts his claim with regard to fixation of monthly income of the deceased. The learned counsel appearing for the appellants contended that the deceased Haridoss was a van driver and was earning a sum of Rs.20,000/- per month, but the Tribunal has fixed only a sum of Rs.11,000/- as monthly income while determining the compensation towards ***Loss of Dependency*** and requested this Court to fix the notional income of the deceased at Rs.14,100/- as per the decision in “***Andal and two others Vs. Avinav Kannan and New India Assurance Company Ltd., Chennai***” reported in ***2019 (1) TNMAC 54 (DB)***.

6.Per contra, learned counsel appearing for the respondent-Transport Corporation contended that since the appellants have not filed any documentary evidence in order to prove that the deceased was earning a sum of Rs.20,000/- per month as Van driver, the Tribunal has rightly fixed the notional monthly income of the deceased at Rs.11,000/- which requires no



interference. However, he fairly agreed that a sum of Rs.13,000/- may be fixed.

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7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the Respondent-Transport Corporation and perused the entire materials on record.

8. It is the case of the appellants that at the time of accident the deceased was aged 35 years and working as a Van driver and earning a sum of Rs.20,000/- per month. But no documents have been filed to that effect. Therefore, the Tribunal considering the age of the deceased and the socio-economic conditions prevailing at the time of accident, has fixed the monthly income at Rs.11,000/- per month, which in the opinion of this Court is very low and hence this Court decides to apply the cost of inflation index issued by the Central Board of Direct Tax (CBDT), for the purpose of determination of notional income of the deceased as per the Judgment of this Court in *Andal and two others Vs. Avinav Kannan and New India Assurance Company Ltd., Chennai* reported in *2019 (1) TNMAC 54 (DB)*. Accordingly, this Court fixes a sum of Rs.14,100/- (6500x280/129) as notional income of the deceased and by adding future prospects @40%, a sum of Rs.19,740/-



(14,100+5640) is arrived and by applying the multiplier 15 a sum of Rs.35,53,200/- (19,740x12x15) is arrived and by deducting 50% towards personal expenses, a sum of **Rs.17,76,600/-** is awarded towards **Pecuniary Loss** and hence the compensation towards Pecuniary Loss is enhanced from **Rs.13,86,000/-** to **Rs.17,76,600/-**. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pecuniary Loss	13,86,000/-	17,76,600/-	Enhanced
2.	Loss of Consortium	88,000/-	88,000/-	Confirmed
3.	Loss of Estate	16,500/-	16,500/-	Confirmed
4.	Funeral Expenses	5,500/-	5,500/-	Confirmed
5.	Transportation Expenses	15,000/-	15,000/-	Confirmed
	Total	Rs.15,12,500/-	Rs.19,03,100/-	Enhanced by Rs.3,90,600/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at **Rs.15,12,500/-** is hereby enhanced to **Rs.19,03,100/-** together with interest at the rate of 7.5% per



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annum from the date of petition till the date of deposit. The Claimants are entitled to equal amount of compensation. The respondent-Transport Corporation is directed to deposit the award amount now determined 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.289 of 2019** on the file of the Motor Accidents Claims Tribunal, IV Judge, Court of Small Causes, Chennai. On such deposit being made, the Tribunal is directed to transfer the respective shares of the claimants, directly to the Bank account of the appellants/claimants through RTGS, within a period of **three weeks**. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

14.02.2024

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Index : Yes / No

Internet : Yes / No



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To

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

2. The Motor Accident Claims Tribunal,
IV Judge, Court of Small Causes, Chennai.

3. The Section Officer,
VR Section,
High Court,
Madras.

KRISHNAN RAMASAMY, J.

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