



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA Nos.3046 of 2023 & 183 of 2024
CMP No28793 of 2023

CMA No.3046 of 2023

The Managing Director
Tamil Nadu State Transport Corporation
Kumbakonam Limited
Periyamilaguparai
Trichy.

..Appellant

.Vs.

1.Jayamma
2.Mohanraj
3.Rajeswari
4.Prabakaran
5.Ganesan
CMA No.183 of 2024
1.Jayamma
2.Mohanraj
3.Rajeswari
4.Prabakaran
5.Ganesan

..Respondents

..Appellants

.VS.

The Managing Director
Tamil Nadu State Transport Corporation
Kumbakonam Limited
Periyamilaguparai
Trichy.

..Respondent



Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgment dated 01.03.2023 made in M.C.O.P.No.1364 of 2021, on the file of the Special District Judge, MCOP Tribunal at Salem.

For Appellant
in CMA No.3046 of 2023
and
For Respondents
in CMA No.183 of 2024 : Mr.M.Murali Vinodh

For Respondent
in CMA No.3046 of 2023
and
For Appellants
in CMA No.183 of 2024 : Mr.S.P.Yuvaraj

COMMON JUDGMENT

The Transport Corporation has filed CMA No.3046 of 2023 questioning the quantum of compensation and the claimants have filed CMA No.183 of 2024, seeking for enhancement of compensation, against the award passed by the Special District Judge, MCOP Tribunal, Salem, in MCOP No.1364 of 2021, dated 01.03.2023.

2.The claimants are the parents, brothers and sister of the deceased Loganathan and they came up with a case that the deceased Loganathan was riding a two wheeler on 04.08.2021 at Namakkal Road and at about 4.45 p.m., the offending vehicle which was the Bus belonging to the Transport Corporation was driven in a rash and negligent manner and it hit the two heeler from behind as a result of which the deceased was thrown out of the vehicle and he sustained grievous injuries and he succumbed to the injuries.



It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

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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 Transport Corporation.

4.The Tribunal having rendered the above finding, fixed the total compensation at Rs.9,41,000/- under various heads as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income [8000 * 12 * 17) = 16,32,000 * 1/2	8,16,000/-
2.	Loss of love and affection (25,000 * 5)	1,00,000/-
3.	Funeral Expenses	25,000/-
	Total	9,41,000/-

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

6.The Transport Corporation aggrieved by the quantum of compensation fixed by the Tribunal and the claimants seeking for enhancement of compensation, have filed these appeals before this Court.



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7. Heard the learned counsel for the appellant and the learned counsel for the respondents.

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

9. The learned counsel for the Transport Corporation submitted that the Tribunal had fixed a sum of Rs.8,000/- as notional monthly income without any proof and as a result, an exorbitant amount has been fixed as compensation under the head 'loss of income/dependency'. Per contra, the learned counsel for the claimants submitted that the Tribunal has fixed a very low notional monthly income and the same requires enhancement.

10. The accident had taken place in the year 2021. The claimants came up with a case that the deceased was working as a Hydraulic Fitter in a private concern at Tiruchengode and he was earning a sum of Rs.25,000/- p.m. There was no proof regarding the occupation or the monthly income earned by the deceased. However considering the fact that the accident had taken place in the year 2021, the notional monthly income fixed by the Tribunal at Rs.8000/- is definitely on the lower side.

11. In all other cases where such notional income is fixed for the year 2021, this Court would have fixed a sum of Rs.18,000/- p.m., considering the cost of living and price



index. However, this Court takes into consideration the fact that the parents will be taken care by other two sons and the brothers and sister are not dependent on the deceased.

Therefore, this Court is inclined to fix the notional monthly income of the deceased at Rs.15,000/- and 40% can be added towards future prospects considering the fact that the deceased was aged about 26 years. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows :

Monthly income fixed	:	Rs.15,000/-
Add: Future prospects 40%	:	Rs. 6,000/-

		Rs.21,000/-
After deducting 1/2 for personal expenses:	Rs. 10,500/-	

	Rs.10,500/-	
Multiplier to be adopted	17	
Loss of Dependency Rs.10,500/- * 12 * 17	:	Rs.21,42,000/-

12.The next issue is with regard to the compensation that has been fixed under the head 'loss of love and affection'. The Tribunal has fixed only a sum of Rs.1,00,000/- under the head 'loss of love and affection' and this Court is inclined to fix a sum of Rs.2,00,000/- under this head [Rs.40,000/- * 5].

13.The Tribunal has fixed a sum of Rs.25,000/- under the head 'funeral expenses'.

The same is hereby reduced to Rs.15,000/-. The Tribunal has not given any compensation



under the head 'loss of estate' and this Court is inclined to fix a sum of Rs.15,000/- under this head.

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

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income/dependency	21,42,000/-
2.	Loss of love and affection (40,000 * 5)	2,00,000/-
3.	Funeral Expenses	15,000/-
4.	Loss of Estate	15,000/-
	Total	23,72,000/-

15. The compensation awarded by the Tribunal at Rs.9,41,000/- is hereby enhanced to Rs.23,72,000/-. The respondent – Transport Corporation is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at the rate of 7.5% p.a., from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.14,31,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 184 days in filing this appeal. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



15. In the result, CMA No.3046 of 2023, is dismissed and CMA No.183 of 2024, is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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25.07.2024

Index : Yes
Speaking Order
Neutral citation : Yes
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To

Special District Judge
MCOP Tribunal
Salem.



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N. ANAND VENKATESH., J

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COMMON Judgment in
CMA Nos.3046 of 2023 & 183 of 2024

25.07.2024