



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.935 of 2024

1.Meenakshi

2.Muniyamma

3.Munivel

4.Nagaraj

5.Valarasu

..Appellants

.vs.

The Metropolitan Transport Corporation Ltd.,
Pallavan House,
Anna Salai,
Chennai – 600 002.

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Decree dated 20.02.2023 and made in MACTOP No.1955 of 2017 on the file of the Motor Accident Claims Tribunal, IV Judge, Court of Small Causes, Chennai.

[Cause Title accepted vide Court order dated 07.03.2024 made in CMP No.4086 of 2024 in CMA SR No.76390 of 2023]

For Appellants : Mrs.A.Subadra

For Respondent : Mr.M.Murali Vinoth



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JUDGMENT

The claimants who are the mother, sister and brothers of the deceased Murugesan not being satisfied with the quantum of compensation awarded by the Tribunal in MACTOP No.1955 of 2017, dated 20.02.2023 have filed this appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Murugesan was riding a motor cycle on 05.03.2017 at Ambattur-Redhills road and at about 02.15 p.m., the offending vehicle which was a water tanker lorry came in the opposite direction and it dashed on the two wheeler. As a result of which, the deceased sustained grievous injuries and succumbed to the injuries. 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 offending vehicle. Having reached such a conclusion, the Tribunal had fixed the total compensation at Rs.23,00,100/- under various heads as follows:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	22,17,600
2.	Loss of Consortium	44,000
3.	Loss of Estate	16,500
4.	Funeral Expenses	16,500
5.	Transportation Charges	5,500
	Total	23,00,100

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal have filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mrs.A.Subadra, learned counsel appearing on behalf of the appellants and Mr.M.Murali Vionth, learned counsel appearing on behalf of the respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.



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8. The main issue that was raised on the side of the appellants is with regard to the notional monthly income that was fixed while calculating the compensation under the head of 'Loss of dependency'. The deceased was aged about 24 years and it was claimed that he was a contract labourer and was earning a sum of Rs.30,000/- per month. There was no material to substantiate the avocation or the monthly income of the deceased. Therefore, the Tribunal had fixed the notional monthly income at Rs.11,000/- per month.

9. Considering the fact that the accident had taken place in the year 2017 and the deceased was aged about 24 years and claimed to be a contract labourer in a private company, this Court is inclined to fix the notional monthly income at Rs.14,000/- per month. Thus, the compensation under the head of loss of dependency is calculated as follows:

$$\text{Rs.14,000} + \text{Rs.5,600 (40\%)} \times 12 \times 18 \times 1/3 = \text{Rs.28,22,400/-}$$

10. There is yet another head where the appellants are seeking for enhancement i.e., under the head of 'Loss of Consortium'. The Tribunal has fixed the compensation under the head of loss of consortium at Rs.44,000/-. The dependants are the widowed mother, sister and three brothers. This Court is inclined to fix the compensation under the head of 'Loss of Love and Affection' and grant a sum of Rs.40,000/- to each of the



claimants. Instead of granting the compensation under the head of 'Loss of consortium', this Court is inclined to grant the compensation under the head of 'Loss of Love and Affection' to the tune of Rs.2,00,000/- (Rs.40,000/- x 5).

11.The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

12.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency Rs.14,000 + Rs.5,600 (40%) x 12 x 18 x 1/3	28,22,400
2.	Loss of Love and Affection	2,00,000
3.	Loss of Estate	16,500
4.	Funeral Expenses	16,500
5.	Transportation Charges	5,500
	Total	30,60,900

13.The compensation awarded by the tribunal at Rs.23,00,100/- is enhanced to Rs.30,60,900/-. The respondent Transport Corporation is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at



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ssr

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 claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

14. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

26.06.2024

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

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

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