



C.M.A.No.2786 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

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1.Stella Mary
2.Meera Jasmin Mary(Minor)
3.Darjan Felix(Minor)
(Minor petitioners 2 and 3 are rep.
by their next friend/elder sister
the 1st petitioner herein)

... Appellants

..Vs..

1.Mahesh
2.Rajesh
3.The Managing Director
Tamil Nadu State Transport Corporation Ltd
Kumbakonam, having office at
Railway Station New Road
Kumbakonam Town and District Munisif

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 29.01.2021 passed in M.C.O.P No.214 of 2018 on the file of the Motor Vehicle Accident Claims Tribunal (District Judge) Karaikal.



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For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.D.Venkatachalam for R3
No Appearance for R1 & R2

J U D G M E N T

This appeal has been filed by the claimants seeking enhancement of compensation.

2. The Tribunal under the impugned award has directed the third respondent/Transport Corporation to pay the appellants/claimants a compensation of Rs.20,26,392/- as detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Income	Rs.6500/- per month
Inflation Index	Rs.6500 x 264/129 = Rs.13302/-
1/3rd of the income deducted as personal expenses of the deceased	Rs.13302/- Add: 40% of income towards future prospects Rs.13302/- + Rs.5321= 18623/- Less: 1/2 of income Rs.18,623/- (-) Rs.9311.5= Rs.9311.50 rounded off to



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<i>Heads</i>	<i>Award Amount (Rs.)</i>
	Rs.9312/-
Compensation after multiplier of 18 is applied	20,11,392/- (9312 x 18 x 12)
Funeral Expenses	15,000/-
Total	20,26,392/-

3. Learned counsel for the appellants/claimants would submit that the Tribunal has erroneously deducted 50% towards personal expenses of the deceased. According to him, since the parents of the deceased are predeceased and one of the sibling of the deceased is a minor, the Tribunal ought to have deducted only 1/3rd towards the personal expenses of the deceased as per the decision of the Hon'ble Supreme Court in **Sarla Verma and others v. Delhi Transport Corporation and another** reported in **2009(2) TN MAC 1 (SC)**.

4. Learned counsel for the appellant would also contend that the Tribunal has failed to award any compensation towards loss of love and affection and loss of estate. On the contrary, the learned counsel for the third



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respondent/Corporation would submit that aggrieved by the very same award, the third respondent/Transport Corporation had preferred an appeal before this Court in C.M.A No.2285 of 2021. He would submit that by a judgment dated 12.08.2021 in C.M.A No.2285 of 2021, this Court while dismissing the appeal filed by the Transport Corporation enhanced the compensation payable to the appellants/claimants herein from Rs.20,26,392/- to Rs.21,66,392/- and while enhancing the compensation has also awarded compensation towards loss of love and affection. He would also submit that the deceased was a bachelor at the time of the accident and therefore, the Tribunal has rightly deducted 50% towards his personal expenses as per the decision of the Hon'ble Supreme Court in *Sarla Verma* case as referred supra. The copy of the judgment dated 12.08.2021 passed by this Court in the appeal filed by the Transport Corporation in CMA No.2285 of 2021 is also placed on record. It is clear from the said judgment that the compensation determined by the Tribunal under the impugned award has been enhanced in favour of the appellants herein and the compensation towards loss of love and affection has also been directed to be paid to the appellants herein in accordance with the decision rendered by the



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Hon'ble Supreme Court in **National Insurance Company Ltd., v. Pranay**

Sethi & others reported in **2017(2) TN MAC 609 (SC)**.

5. Insofar as the claim made by the claimants that the deduction of 50% towards personal expenses of the deceased is incorrect is concerned, the same has to be rejected in view of the fact that the deceased was aged 20 years at the time of the accident and he had an elder married sister, aged 28 years and therefore, without any evidence that he was the sole bread winner for his family, the Tribunal cannot take 1/3rd towards personal expenses of the deceased instead of correct deduction of 50% made by the Tribunal as admittedly the deceased was a bachelor at the time of the accident. The compensation awarded to the appellants/claimants herein as determined by this Court in its judgment dated 12.08.2021 in CMA No.2285 of 2021 filed by the respondent Corporation, is a just compensation and there is no scope for further interference by this Court, despite the fact that the appellants/claimants have filed a separate appeal before this Court seeking for enhancement of compensation.



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6. For the foregoing reasons, this Court does not find any merit in this appeal.

7. Accordingly, the Award and decree dated 29.01.2021 passed in M.C.O.P No.214 of 2018, on the file of the Motor Accident Claims Tribunal/District Judge, Karaikal stands confirmed and this Civil Miscellaneous Appeal stands dismissed. No costs.

10.06.2024

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking order
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To

- 1.The Motor Vehicle Accident Claims Tribunal / District Judge, Karaikal.
- 2.The Section Officer
V.R.Section, High Court of Madras.



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ABDUL QUDDHOSE, J.

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