



C.M.A.No.2871 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2871 of 2021

1.R.Jayalakshmi

2.Minor R.Vigneshwaran

3.R.Dhanakodi

4.R.Poovitha

*(Minor petitioner rep. by mother, guardian, NF
R.Jayalakshmi, the 1st petitioner herein)*

...Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM-Divn.1) Ltd.,
No.3/137, Salamedu Vazhuthareddy Post,
Villupuram – 605 402.

...Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor
Vehicles Act, 1988, against the Judgment and Decree in



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M.C.O.P.No.2094 of 2018 dated 28.07.2021 on the file of the Motor Accident Claims Tribunal/I Additional District and Sessions Judge, Cuddalore.

For Appellants : Mrs.Ramya V. Rao

For Respondent : Mr.S.S.Santhosh Kumar

J U D G M E N T

This appeal is filed by the appellants challenging the judgment and decree passed by the Motor Vehicle Accidents Claims Tribunal, I Additional District and Sessions Judge, Cuddalore in M.C.O.P.No.2094 of 2018 dated 28.07.2021.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioners are the claimants and the respondent is the owner of the vehicle before the Tribunal.

4.The brief facts of the case are as follows:



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On 12.08.2017, at about 00.45 hours, the deceased was riding Suzuki Slingshot motorcycle bearing Registration No.P-01-BK-8557 from South to North, after indicating proper signal, he was overtaking the respondent's TNSTC bus bearing Registration No.TN-32-N-3586, due to the rash and negligent driving of the respondent corporation, dashed against the motorcycle, the deceased was died on spot. A criminal case was registered against the driver of the respondent corporation bus in Crime No.214/2017 by Puduchatram Police. The claimants filed a claim petition before the Tribunal in M.C.O.P.No.2094 of 2018, the Tribunal has awarded a total sum of Rs.20,37,800/- after deducting 20% negligence, awarded a sum of Rs.16,30,240/- as compensation. Challenging the same, the present appeal has been filed.

5.Learned counsel appearing for the appellants submitted that the accident was occurred due to the rash and negligent driving of the vehicle belonged to the respondent Transport Corporation, dashed against the motorcycle, the deceased was died on spot. Learned counsel appearing for the appellants further submitted that at the time of the



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accident, the deceased was 28 years accident and the accident was occurred in the year 2017, the correct notional income for the accident 2017 is Rs.14,000/-. Hence, she prayed to allow the appeal.

6.Learned counsel appearing for the respondent Transport Corporation submitted that after perusing the oral and documentary evidence, the Tribunal has awarded the compensation which is just and reasonable and hence, he prayed to dismiss the appeal.

7.Heard learned counsel appearing for the appellants as well as the respondent and perused the materials available on record.

8.Before the Tribunal, the first petitioner was examined as PW1 and Mr.Sriram, an eyewitness was examined as PW2 and on the side of the petitioners, 9 documents were marked as Exs.P1 to P9. On the side of the respondents, no witness was examined and no document was marked.



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9.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only seeking enhancement of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

10.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.19,27,800/- for loss of income, Rs.40,000/- for loss of consortium, Rs.40,000/- for loss of love and affection, Rs.15,000/- for transport expenses, Rs.15,000/- for loss of funeral expenses and arrived at a total compensation of Rs.20,37,800/- after deducting 20% negligence awarded Rs.16,30,240/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

11.Perusal of records reveal that the deceased was a Catering Course Certificate Holder and working as Master Cook at the time of the accident. Hence, this Court fixes a sum of Rs.13,500/- as the monthly notional income of the deceased. The Tribunal has rightly awarded 40% of income towards future prospects and has rightly deducted 1/4 of the



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amount towards personal expenses and has rightly adopted the multiplier

17. Hence, the amount awarded for loss of dependency works out to Rs.28,91,700/- [Rs.13,500/- x 1/4 = Rs.10,125/- + 40% = Rs.4,050/-; Rs.14,175/- x 12 x 17 = Rs.28,91,700/-]

12.The amount awarded under the heads loss of estate and funeral expenses, in the opinion of this Court are just and reasonable and the same are confirmed. This Court is of the opinion that some amount has to be awarded under the head loss of love and affection. Accordingly, this Court awards a sum of Rs.2,00,000/- for loss of love and affection [Rs.40,000/- x 5]. The amount awarded under the head loss of income, in the opinion of this Court is very meagre and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded under the head loss of income is enhanced to Rs.28,91,700/- from Rs.19,27,800/-.

13.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount	Amount
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		awarded by Tribunal (in Rs.)	awarded by this Court (in Rs.)
1.	Loss of Income	19,27,800	28,91,700
2.	Loss of consortium	40,000	40,000
3.	Loss of love and affection	40,000	1,60,000
4.	Loss of estate	15,000	15,000
5.	Funeral expenses	15,000	15,000
	Total	Rs.20,37,800/-	Rs.31,21,700/-

14.The appellants/claimants are entitled to total compensation of Rs.31,21,700/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

15.The judgment and decree passed by the Motor Vehicles Tribunal/I Additional District and Sessions Judge, Cuddalore in M.C.O.P.No.2094 of 2018 dated 28.07.2021, is modified to the above extent.

16.The respondent Transport Corporation is directed to deposit the modified/enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such



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deposit being made, the appellants 1, 3 and 4 are permitted to withdraw their share as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The second appellant is permitted to withdraw his share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to his majority. If the second appellant is still minor, his share shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until he attain majority and the interest derived from out of the said share of the minor shall be paid to the first claimant/mother every quarter to be utilized for the welfare of the said minor.

17.The appellants/claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation



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amount, if required. The Motor Accident Claims Tribunal/I Additional District and Sessions Judge, Cuddalore, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/claimants.

18.The civil miscellaneous appeal is partly allowed. No costs.

29.11.2024

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.The Motor Accidents Claims Tribunal,
I Additional District and Sessions Judge, Cuddalore.

2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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