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Civil Miscellaneous Appeal Nos.1850 of 2023 & 799 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal Nos.1850 of 2023 & 799 of 2024

and

C.M.P.No.17909 of 2023 in C.M.A.No.1850 of 2023

C.M.A.No.1850 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road, Salem - 7.

... Appellant

Vs.

1.Megala
W/o.Saravanan

2.Keerthana
D/o.Saravanan

3.Selvi
W/o.Selvaraj

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.04.2023 made in M.C.O.P.No.56 of 2022 on the file of Motor Accident Claims Tribunal, Special District Court, Salem.

For Appellant : Mr.D.Nitin

For Respondents : Mr.Amar D. Pandia
for Mr.M.Mohamed Riyaz



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C.M.A.No.799 of 2024

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... Appellants

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For Appellants : Mr.Amar D. Pandia
for Mr.M.Mohamed Riyaz

For Respondent : Mr.D.Nitin

COMMON JUDGMENT

The transport corporation has filed C.M.A.No.1850 of 2023 questioning the liability as well as the quantum of compensation fixed by



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the Motor Accident Claims Tribunal, Special District Court, Salem, in M.C.O.P.No.56 of 2022, dated 05.04.2023. The claimants, who are the mother, sister and grandmother of the deceased, not being satisfied with the quantum of compensation awarded, have filed C.M.A.No.799 of 2024.

2. The deceased Vinoth Kumar was standing along with his two wheeler on 28.09.2020 near a petrol bunk in order to cross the road and at about 10.35 a.m., the offending vehicle, the bus belonging to the appellant transport corporation was driven in a rash and negligent manner and it dashed on the deceased as a result of which he sustained grievous injuries and succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal.

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. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at



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Rs.11,65,000/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	10,80,000/-
2.	Loss of love and affection	60,000/-
3.	Funeral expenses	25,000/-
	Total	11,65,000/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. Both the claimants as well as the transport corporation have filed the present appeals against the award passed by the Tribunal.

5. Heard Mr.D.Nitin, learned counsel for transport corporation and Mr.Amar D. Pandia, learned counsel for claimants.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.



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8. Learned counsel for transport corporation submitted that the entire negligence was on the part of the deceased, who had driven the two wheeler in a rash and negligent manner and was trying to overtake on the left side of the bus and fell down.

9. The Tribunal considered the evidence of PW-1 and RW-1, who was examined on the side of the transport corporation. RW-1 deposed that he did not see the accident and that he came to know about the accident only after hearing people shout and that he gave the complaint only based on the instructions given by the transport corporation. It is, therefore, clear that the complaint given on the side of the transport corporation is based on what was directed by the Management to the complainant, who was working in the transport corporation. Therefore, just because the First Information Report was registered based on that complaint, that cannot be put against the deceased. The Tribunal had rightly come to the 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. This finding does not suffer from any illegality and it cannot be interfered with.



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10. The next issue is with regard to the quantum of compensation fixed by the Tribunal. The deceased in this case was aged 22 years and the claimants came up with a case that he was working as an accountant and he was earning a sum of Rs.25,000/- every month. There is no evidence regarding the occupation and the monthly income earned by the deceased. The Tribunal had fixed the notional monthly income at Rs.10,000/- including future prospects. It is clearly on the lower side.

11. This Court is inclined to fix the notional monthly income at Rs.15,000/- and 40% can be added towards future prospects. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects	:	Rs. 6,000/-
40% of Rs.15,000/-		-----
		Rs. 21,000/-
Annual Income	:	Rs. 2,52,000/-
(21,000 * 12)		
Less : Personal expenses		
Rs.2,52,000/- * 1/2	:	Rs. 1,26,000/-

		Rs. 1,26,000/-
Multiplier	:	x 18

Loss of income/dependency	:	Rs.22,68,000/-



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12. The Tribunal had granted a total compensation of Rs.60,000/- under head 'loss of love and affection'. Considering the fact that there are three claimants, this Court is inclined to fix the total compensation at Rs.1,00,000/- under this head. The Tribunal had granted a sum of Rs.25,000/- towards funeral expenses and the same is reduced to Rs.15,000/-. This Court is inclined to grant Rs.15,000/- under the head 'loss of estate'.

13. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of income	10,80,000/-	22,68,000/-
2.	Loss of love and affection	60,000/-	1,00,000/-
3.	Funeral expenses	25,000/-	15,000/-
4.	Loss of estate	-	15,000/-
	Total	11,65,000/-	23,98,000/-

14. The compensation awarded by the Tribunal at Rs.11,65,000/- is enhanced to Rs.23,98,000/-. The respondent transport corporation is directed to deposit the compensation awarded by this Court, less the



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amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.12,33,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 131 days as was ordered by this Court in C.M.P.No.1001 of 2024 in C.M.A.Sr.No.698 of 2024 dated 14.03.2024. 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.

In the result, C.M.A.No.1850 of 2023 is dismissed and C.M.A.No.799 of 2024 is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To
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The Motor Accident Claims Tribunal,
Special District Court,
Salem.



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N.ANAND VENKATESH, J.

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