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C.M.A.No.193 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.193 of 2024

1.S.Kumari
2.S.Gowthami
3.S.Sathish
4.S.Deenathayalan (Minor),
Rep by his mother/1st appellant.

...Appellant

Vs

The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Trichy Region, Periyamilaguparai,
Trichy-1.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award passed by the learned IV Judge of Small Causes Court, Chennai, Motor Accident Claims Tribunal dated 12.04.2022 made in MACTOP.No.2691 of 2014 from 14,48,800/- to



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Rs.18,48,800/- (as restricted by the appellants) as against the claim of
Rs.40,00,000/- with interest, cost.

For Appellant : Mr.K.V.Muthu Visakan

For Respondent : Mr.M.Murali Vinodh,
Standing counsel.

JUDGMENT

This civil miscellaneous appeal has been filed to enhance the compensation awarded vide the judgment and decree dated 12.04.2022 made in MACTOP.No.2691 of 2014.

2. The learned counsel for the appellants would submit that on 14.09.2013, when one Settu was riding the scooty bearing Registration No.TN-18-K-4217 at Vandavasi to Kancheepuram Road, a TNSTC Bus bearing Registration No.TN-45-N-3164 came in a rash and negligent manner and dashed against him, due to which he was died on the spot. Considering all the aspects the Tribunal had awarded the following compensation:



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	11,97,900
2	Loss of Consortium	44,000
3	Loss of Estate	16,500
4	Funeral Expenses	16,500
5	Loss of Love and Affection	1,60,000
6	Transportation Charges	5,500
7	Attender Charges	8,400
	Total	14,48,800

3. Further, he would submit that since the deceased was a real estate agent as well as a flower vendor, the notional income of a sum of Rs.11,000/- fixed by the Tribunal is on the lower side. Hence, he would request this Court to enhance the same.

4. In reply, though the learned counsel for the respondent had initially objected for the enhancement of compensation, after some arguments, he would suggest this Court to fix a sum of Rs.12,000/- as notional income of the deceased.

5. Heard the learned counsel for the appellant and the respondent and also



perused the materials available on record.

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6. In view of the above, considering the nature of avocation of the deceased and year of accident, this Court is inclined to fix a sum of Rs.13,500/- as notional income of the deceased. Hence, considering the age of the deceased, by applying '11' as multiplier and adding 10% as future prospects and by deducting 1/4 towards the personal expenses of the deceased, the loss of income would be calculated as follows:

$$\begin{aligned} &\text{Rs.13,500/- (notional income) + Rs.1,350/- (10\% future prospects)} \\ &* 11 \text{ (multiplier)} * 12 \text{ (months)} * 3/4 \text{ (dependency)} = \text{Rs.14,70,150/-} \end{aligned}$$

7. Further, it appears that the Tribunal had awarded a sum of Rs.1,60,000/- towards loss of love and affection for three children of the deceased, which is on the higher side. Hence the same is reduced to a sum of Rs.1,20,000/- (Rs.40,000/- each). It also appears that the Tribunal had awarded only a sum of Rs.5,500/- towards transportation, which is on lower side and the same is increased to a sum of Rs.10,000/-.

8. Accordingly, the compensation awarded by the Tribunal is modified as



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follows:

S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Loss of Dependency	11,97,900	14,70,150
2	Loss of Consortium	44,000	44,000
3	Loss of Estate	16,500	16,500
4	Funeral Expenses	16,500	16,500
5	Loss of Love and Affection	1,60,000	1,20,000
6	Transportation Charges	5,500	10,000
7	Attender Charges	8,400	8,400
	Total	14,48,800	16,85,550

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.16,85,550/-. Accordingly, the award amount stands enhanced from a sum of Rs.14,48,800/- to Rs.16,85,550/-. In all other aspects, the award of the Tribunal stands confirmed.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the respondent is directed to deposit a sum of Rs.16,85,550/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of



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MACTOP.No.2691 of 2014 on the file of the Motor Accident Claims Tribunal,

IV Judge of Small Causes Court, Chennai. Further, the appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. Upon such deposit, the share of the minor 4th appellant is directed to be deposited in any one of the Nationalised Bank till he attains majority and the 1st appellant being the mother of the minor is permitted to withdraw the accrued interest once in three months for the welfare of the minor. Thereafter, the Tribunal is directed to transfer the shares of the appellants 1 to 3 to their respective bank accounts by way of RTGS, in the proportions determined by this Court, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the appellants or application for withdrawal from the appellants, whichever is earlier. No costs.

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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

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



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KRISHNAN RAMASAMY,J.

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