



C.M.A.No.3321 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3321 of 2021

And

C.M.P.No.15418 of 2024

- 1.Ravichandran
- 2.Minor.Davidson
- 3.Minor.Theboral

(2nd and 3rd Minor petitioners
are rep. by their Father, Guardian
and n.f.Ravichandran)

... Appellants

Vs.

- 1.The Managing Director,
M/s.State Express Transport Corporation Ltd.,
No.2, Pallavan Salai,
Chennai – 600 002.

- 2.V.M.Muthukumar

- 3.The Branch Manager,
The New India Assurance Company Limited,
No.99/C-3, I Floor,
Opp. New Bus Stand, Perambalur.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the civil miscellaneous appeal and set aside the award passed by the Motor Accidents Claims Tribunal Judge



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and Sessions Judge, Mahila Court, Perambalur by its decree and judgment dated 24.08.2021 and made in M.C.O.P.No.243 of 2018.

For Appellants : Mr.C.Vidhusan

For Respondents : Mr.K.Kathiresan for R1
R2 – NDW
vide endorsement in the EB Bundle
Mr.J.Michael Visuvasam for R3

J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the judgment and decree passed in M.C.O.P.No.243 of 2018 dated 24.08.2021 on the file of the Motor Accidents Claims Tribunal Judge and Sessions Judge, Mahila Court, Perambalur.

2.The learned counsel appearing for the appellants submitted that on 09.09.2017 at about 04.30 a.m., the deceased Jothi was travelling in the bus bearing Registration No.PY-01-CM-5699 belonging to the second respondent and the said bus was proceeding on the Chennai – Trichy NH Road from North to South near South of Siruvachur, North Side, approximately in front of 300 meter Ariyas Hotel, already a lorry and bus had met with the accident and traffic



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was debarred by the traffic police and the driver of the bus had stopped the bus for clearance of traffic. At that time, the driver of the bus bearing Registration No.TN-01-AN-0272 belonging to the first respondent drove the vehicle in a rash and negligent manner in the same direction and dashed behind the bus belonging to the second respondent, thereby, the bus belonging to the second respondent dashed against another bus bearing Registration No.TN-45-N-3642 which was stopped in front of the bus belonging to the second respondent, due to which, the deceased lost her life.

3.The learned counsel appearing for the appellants further submitted that thereafter, the dependants of the deceased Jothi/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.25 Lakhs as compensation. After adjudication, the Tribunal awarded a sum of Rs.9,89,000/- as compensation along with interest at the rate of 7.5% per annum from the date of filing till the date of realization with proportionate costs and directed the first respondent to deposit the compensation and dismissed the petition as against the respondents 2 and 3. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.



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4.The learned counsel appearing for the appellants further submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. Since the deceased travelled in the bus belonging to the second respondent and insured with the third respondent, the appellant has impleaded the respondents 2 and 3 as formal party and the eye witness also deposed as against the driver of the bus belonging to the first respondent and the appellants are not questioning the negligence aspect. The learned counsel further submitted that the accident is of the year 2017, however, the Tribunal fixed a sum of Rs.6,000/- as the notional income of the deceased and awarded compensation for loss of dependency which is very meagre and the amount awarded by the Tribunal under the other heads are also very meagre and hence, the appellants are entitled for enhancement in compensation.

5.The learned counsel appearing for the first respondent Transport Corporation submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.



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6. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondents 1 and 3 and perused the materials available on record.

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

8. The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.9,00,000/- for loss of dependency, Rs.40,000/- for consortium, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses, Rs.2,500/- for medical expenses, Rs.16,500/- for transport expenses and arrived at a total compensation of Rs.9,89,000/- with interest at the rate of 7.5% p.a. from the date of filing till the date of realization.

9. The accident is of the year 2017. Applying the ratio laid down in the decision of the Hon'ble Apex Court in *Sarla Varma and Ors. v. Delhi Transport Corporation and Anr.* reported in 2009 (2) L.S. 29



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(S.C.), this Court fix a sum of Rs.14,000/- as the monthly notional income of the deceased and 1/3 of the amount has to be deducted towards personal expenses. The deceased was aged 40 years at the time of death. Hence, the correct multiplier to be adopted is 15. If 40% of notional income is awarded for future prospects, the amount awarded for loss of dependency works out to Rs.23,52,060/- [Rs.14,000/- X 40% = Rs.5,600/-; Rs.14,000/- + Rs.5,600/- = Rs.19,600/-; Rs.19,600/- X 1/3 = Rs.6,533.33; Rs.19,600/- - Rs.6,533/- = Rs.13,067/-; Rs.13,067/- X 12 X 15 = Rs.23,52,060/-].

10.This Court is of the opinion that some amount has to be awarded towards loss of love and affection. Accordingly, this Court awards a sum of Rs.80,000/- towards loss of love and affection. The amount awarded under the heads medical expenses and transport expenses, in the opinion of this Court are not necessary and the same are deleted. The amount awarded under the other heads in the opinion of this Court are just and reasonable and the same are confirmed.

11.Accordingly, the compensation amount is re-assessed as



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follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependency	Rs.9,00,000/-	Rs.23,52,060/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of love and affection	---	Rs. 80,000/-
4.	Consortium	Rs. 40,000/-	Rs. 40,000/-
5.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
6.	Transport Expenses	Rs. 16,500/-	---
7.	Medical Expenses	Rs. 2,500/-	---
	Total	Rs.9,89,000/-	Rs.25,02,060/-

12.The claimants are entitled to total compensation of Rs.25,02,060/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.243 of 2018 dated 24.08.2021 on the file of the Motor Accidents Claims Tribunal Judge and Sessions Judge, Mahila Court, Perambalur, is modified to the above extent.

14.The first respondent Transport Corporation is directed to



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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 deposit being made, the first appellant/ claimant is permitted to withdraw his 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 appellants 2 and 3 are permitted to withdraw their shares 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 their majority. If the appellants 2 and 3 are still minors, their shares 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 they attain majority and the interest derived from out of the said share of the minors shall be paid to the first claimant/ father every quarter to be utilized for the welfare of the said minors.

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



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enhanced compensation amount, if required. The Motor Accidents Claims Tribunal Judge and Sessions Judge, Mahila Court, Perambalur, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

16.The civil miscellaneous appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

17.12.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal Judge and Sessions Judge,
Mahila Court, Perambalur.



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M.DHANDAPANI,J.
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