



C.M.A. No. 3525 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No. 3525 of 2021

1. Pushpalatha
 2. Minor. Mira Aravindh
[Minor appellant represented by his mother Pushpalatha,
the first appellant herein]
 3. Vaidhehi
 4. Balaji
- ... Appellants / Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation
Salem Limited,
No.12-Ramakrishna Raod,
Salem, Branch At Dharmapuri.

... Respondent / Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 04.01.2021 passed in M.C.O.P. No.111 of 2020 on the file of the Motor Accident Claims Tribunal and Special District Court, Krishnagiri.

For Appellants	:	Mr.S.P.Yuaraj
For Respondent	:	Mr.D.Nitin
		for Mr.D.Venkatachalam



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed by the claimants seeking quantum of compensation awarded in M.C.O.P. No.111 of 2020, dated 04.04.2021 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The petitioners are the wife, children and parents of the deceased Lakshminarasimha Babu.

4. The only grievance raised in this appeal is that the notional income fixed on the deceased is not in accordance with the norms followed by this Court and eventhough the deceased herein Lakshminarasimhababa is an electrician by profession and he is a skilled labour, the notional income fixed by the Tribunal for awarding compensation needs to be enhanced.



5. The learned counsel for the respondent has opposed for enhancement of compensation on the ground that the Tribunal after considering the evidences placed on record and no income proof has been produced, the Tribunal has rightly fixed the quantum of compensation.

6. I have considered the rival submissions made on both sides and also perused the records.

7. It is true that the claimants were not able to prove the monthly income of the deceased and eventhough they were able to produce the Salary Certificate - Ex.P4 to show that he was the employer of one Allwin Tech, Krishnagiri but no additional documents to support the income of the deceased has been produced. However, the Tribunal has taken note of his educational qualification, fixed the notional income of the deceased as Rs.9,000/- per month. This Court has consistently following the Division Bench Judgment of this Court in *Andal and others vs. Avinav Kannan and others [2019 (1) TN MAC 54 (DB)]* by adopting the cost of index, fixed the notional income of the person who were not able to prove the income. Admittedly, in this case, the deceased was aged about 45 years



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at the time of accident and was Electrician and Camera fitting Lineman

Technician, the Judgment of this Court cited supra, the applicable notional

income based on the cost of index is as follows:

S.No.	Financial Year	Cost of Inflation Index
1	2001-2002	100
2	2002-2003	105
3	2003-2004	109
4	2004-2005	113
5	2005-2006	117
6	2006-2007	122
7	2007-2008	129
8	2008-2009	137
9	2009-2010	148
10	2010-2011	167
11	2011-2012	184
12	2012-2013	200
13	2013-2014	220
14	2014-2015	240
15	2015-2016	254
16	2016-2017	264
17	2017-2018	272
18	2018-2019	280
19	2019-2020	289
20	2020-2021	301
21	2021-2022	317
22	2022-2023	331
23	2023-2024	348

*for example: (Rs.6,500/- X 289) / 129 = Rs.14,562/-
(notional income of the deceased)"*



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8. Hence, this Court is inclined to modify the notional income fixed by the Tribunal based on the dictum laid down in the Hon'ble Apex Court judgment cited supra and the accident taken place in the year 2019-2020 the income fixed as Rs.14,562/- and the same is calculated as follows:

Date of accident	= 21.04.2019
Cost of Inflation index	= 289 (Financial Year 2019-2020)
Notional income of the deceased	= (6,500/- x 289) / (129)
	= Rs.14,562/-

9. The Tribunal has rightly followed the dictum as laid down by the Hon'ble Apex Court in *National Insurance Co. Ltd., vs. Pranay Sethi and other [2017(2) TN MAC 609 (SC): 2017 (16) SCC 680]* fixed 25% as future prospectus and as per the Judgment of the Apex Court in *Sarla Verma and others Vs. Delhi Transport Corporation and others [2009 ACJ 1298 SC : 2009 (6) SCC 121]*, the multiplier is fixed as '14' by considering the age of the deceased is 45 at the time of the accident. The dependants of the deceased are four in number hence deduction of 1/4 made towards his personal expenses. Hence loss of dependency is assessed as follows:

$$\text{Annual income (Rs.14,562/- x 12)} = \text{Rs.1,74,744/-}$$



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add Future prospects @ 25%	= Rs.43,686/-
Yearly income of the deceased	= Rs.2,18,430/-
Yearly contribution to his family (deduction of 1/4 = Rs.54,607.5/- @ Rs.54,608/-)	= Rs.1,63,822-
Applicable Multiplier '14' (Rs.1,63,822 x 14)	
Total Loss of dependency	= Rs.22,93,508/-

10. As far as the compensation awarded under other heads are concerned, the Tribunal has rightly awarded just compensation and this Court is inclined to confirm the same. The notional income of the deceased Lakshminarasimhababa alone is hereby modified.

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.16,10,020/- is hereby enhanced to Rs.24,86,028/- [Rupees Twenty Four Lakhs Eighty Six Thousand and Twenty Eight only] along with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default period, if any. The respondent - Insurance Company is directed to deposit the amount now awarded by this Court along with interest and costs, less the amount already deposited, if any, within a period



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of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.111 of 2020 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri. On such deposit, the appellants are permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the claimants. The share of the minor appellant is directed to be deposited in any one of the Nationalized Bank till the minor appellant attains majority. On such deposit, the first appellant being the mother of the minor appellant is permitted to withdraw the accrued interest once in three months for the welfare of the minor appellant. Since this Court has enhanced the compensation, the appellants/claimants are directed to pay the necessary Court fee, if any, on the enhanced compensation. There shall be no order as to costs in the present appeal.

08.01.2024

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No



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K. RAJASEKAR, J.

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To:

1. The Special District Judge,
Motor Accident Claims,
Krishnagiri.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.

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