



C.M.A.No.2732 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2024

C O R A M

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

C.M.A.No.2732 of 2022

1.V.Santhi
2.V.Ganesh

...Appellant

Vs

The Branch Manager,
Tamilnadu State Transport Corporation (Villupuram Divn I) Ltd.,
Imperial Road, Cuddalore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and enhance the compensation in MCOP.No.1197 of 2019 dated 01.04.2022 on the file of the Motor Accident Claims Tribunal/Special Sub Judge, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For Respondent : Mr.S.S.Santhosakumar,
Standing counsel



C.M.A.No.2732 of 2022

JUDGMENT

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This civil miscellaneous appeal has been filed challenging the judgment and decree dated 01.04.2022 made in MCOP.No.1197 of 2019

2. The learned counsel for the claimant would submit that on 24.05.2019, while the claimant was riding his two-wheeler bearing Registration No.PY-01-BM-3963 with a pillion rider at Chidambaram-Kollidam Main Road, a bus bearing Registration No.TN-32-N-3921 came in a rash and negligent manner and dashed against the claimant, due to which he died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	16,63,200
2	Loss of Estate	16,500
3	Loss of Consortium	44,000
4	Funeral Expenses	16,500
	Total	17,40,200

3. She would also submit that in the present case, the accident was



C.M.A.No.2732 of 2022

occurred in the year 2019. At the time of accident, the deceased was aged about 22 years and unmarried. He was working as part-time worker in a Sweet Stall and was earning around a sum of Rs.15,000/- per month. However, without considering the same, the Tribunal had fixed only a sum of Rs.11,000/- as notional income of the deceased.

4. Further, she would submit that the deceased was a diploma holder in AC Mechanism and in support of the said submission, she has referred to Ex.P8/Diploma certificate and Ex.P9/Industrial School Course Certificate, which have been marked before the Tribunal. Hence, she would submit that the notional income determined by the Tribunal is on the lower side and requests this Court to enhance the same.

5. As per the law laid down by the Hon'ble Apex Court in ***Syed Sadiq and others vs. Divisional Manager, United India*** reported in ***MANU/SC/0033/2014***, and by applying the cost inflation, she calculated the notional income of the deceased as a sum of Rs.14,500/- and filed a calculation memo before this Court and thereby she requests this Court to fix the said



C.M.A.No.2732 of 2022

amount as notional income of the deceased and enhance the compensation towards loss of income. Further, she would also submit that no amount was awarded towards the loss of love and affection to the brother of the deceased. Hence, she requests this Court to re-determine the same.

5. In reply, the learned counsel appearing for the respondent would submit that considering the nature of avocation of the deceased, the Tribunal had fixed the notional income, which is just and reasonable and hence, the same does not need any interference. Thus, he requested this Court to confirm the award passed by the Tribunal.

6. Heard the learned counsel for the appellant and the respondents and also perused the documents available on records.

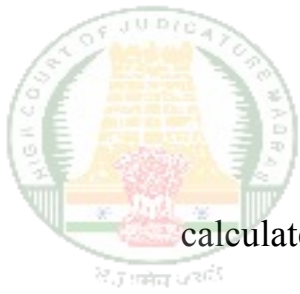
7. In the present case, there is no dispute with regard to the occurrence of accident and fixation of negligence and liability. The only issue involved in this appeal is with regard to the fixation of notional income of the deceased. The accident was occurred in the year 2019 and at the time of accident, the deceased



was aged about 22 years old and unmarried. Further, it appears that the deceased was a diploma degree holder in AC mechanism and also worked as a part-time worker in a Sweet Stall.

8. In the case of *Syed Sadiq*, for a vegetable vendor, the Hon'ble Apex Court had fixed the notional income as a sum of Rs.6,500/-. Hence, in the present case, as per the law laid down by the Hon'ble Apex Court, considering the year of accident and nature of avocation of the deceased and based on the cost inflation index, this Court is of the view that the request made by the learned counsel for the claimant, to fix a sum of Rs.14,500/- as notional income of the deceased, appears to be just and reasonable.

9. Normally for the accident occurred in the year 2019, this Court would fix a sum of Rs.15,000/- as notional income. However, in the present case, the claimants had requested this Court to fix only a sum of Rs.14,500/- as notional income. Therefore, a sum of Rs.14,500/- is fixed as notional income and accordingly, by taking 40% towards future prospects and deducting 50% towards personal expenses of the deceased, the loss of income would be



calculated as follows:

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$$\begin{aligned} & \text{Rs.14,500/- (notional income) + Rs.5,800/- (40\% future prospects)} \\ & * 12 \text{ (months)} * 18 \text{ (multiplier)} * 1/2 \text{ (deduction towards personal expenses)} \\ & = \text{Rs.21,92,400/-} \end{aligned}$$

10. Further, it appears that no amount was awarded towards loss of love and affection to the 2nd claimant/brother of the deceased and hence, this Court is inclined to award a sum of Rs.20,000/- towards the same. With regard to the all the other heads, since the compensation awarded by the Tribunal appears to be just and fair, the same stands confirmed.

11. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Dependency	16,63,200	21,92,400
2	Loss of Estate	16,500	16,500
3	Loss of Consortium	44,000	44,000
4	Funeral Expenses	16,500	16,500
5	Loss of Love and Affection	Nil	20,000
	Total	17,40,200	22,89,400



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12. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.22,89,400/-. Accordingly, the award amount stands enhanced from a sum of Rs.17,40,200/- to Rs.22,89,400/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the compensation will be awarded to the claimants in the following proportions:

- i) Mother of the deceased/1st appellant – Rs.20,00,000/-
- ii) Brother of the deceased/2nd appellant – Rs.2,89,400/-

13. In the result, this Civil Miscellaneous Appeal is partly allowed and the respondent is directed to deposit a sum of Rs.22,89,400/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1197 of 2019 on the file of the Motor Accident Claims Tribunal/Special Sub Judge, Cuddalore. Upon such deposit, the Tribunal is directed to transfer the award amount to bank account of the claimant, by way of RTGS, as per the proportion determined by this Court, within a period of three weeks from the date of deposit and receipt of the Bank details obtained



C.M.A.No.2732 of 2022

from the claimants. No costs.

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13.03.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
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C.M.A.No.2732 of 2022

KRISHNAN RAMASAMY,J.

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C.M.A.No.2732 of 2022

13.03.2024