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CMA.No.448 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.448 of 2023

1. Kolanji
2. Velmurugan
3. Annadurai

Appellants

Vs

The Managing Director
Tamil Nadu State Transport Corporation Limited
Villupuram

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 03.07.2019, made in MCOP.No.106 of 2019, by the Additional District Judge (MACT) Ariyalur.

For Appellants : Mr.P.Parthikannan

For Respondent : Mrs.S.Shanthakumari

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimants, challenging the quantum of compensation, awarded by the judgement and decree, dated, 03.07.2019, made in MCOP.No.106 of 2019, by the Additional District Judge (MACT) Ariyalur.
2. The claimants, who are the daughter in law, grand son and son of the deceased Boopathy respectively, have filed the claim petition before the Tribunal, seeking a compensation of Rs.10,00,000/- on various heads, for the death of the deceased, who died in a motor road accident, which took



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place on 30.09.2016. The claim petition was resisted, on various grounds, by the Respondent Corporation, by filing a counter. On the side of the claimants, PW.1 and PW.2 were examined and Ex.P1 to Ex.P4 were marked. On the side of the Respondent Corporation, RW.1 was examined and Ex.R1 was marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle belonged to the Respondent Corporation, the Tribunal has awarded a total compensation of Rs.4,06,000/- , on various heads, with interest at 7.5% p.a. from the date of the claim petition till the date of realization, to be paid by the Respondent Corporation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income (6000-2000)x12x7	336000
2	Loss of Consortium	40000
3	Loss of Estate	15000
4	Funeral Expenses	15000
Total Compensation		406000

Aggrieved by the quantum of compensation, this appeal has been filed by the claimants.

4. This Court heard the learned counsel for the Appellants and the Respondent Corporation, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the manner, in which the accident had occurred, negligence aspect and the liability aspect as well and the dispute is only with regard to the quantum of compensation, the findings of the Tribunal



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with respect to the manner of the accident, negligence aspect and liability aspect are confirmed and also it is not necessary to narrate the entire facts in detail in respect of the accident.

6. According to the learned counsel for the Appellants, at the time of the accident, the deceased was aged about 65 years old and the accident had occurred in the year 2016 and she was earning a sum of Rs.15,000/- p.m. as a vegetable vendor and hence, even in the absence of evidence to prove the monthly income of the deceased, the monthly notional income arrived at Rs.6000/- by the Tribunal appears to be on the lower side and the compensation awarded under the other heads are reasonable. Hence, the impugned compensation is to be redetermined and enhanced accordingly.
7. Per contra, the learned counsel for the 2nd Respondent submits that in the absence of evidence to prove the monthly income of the deceased, the impugned compensation is just and proper and hence, liable to be confirmed as it is, without any modification and that the entire compensation with interest was deposited and the same was also withdrawn by the claimants.
8. Considering the nature of the avocation as claimed by the claimants, the year of the accident, i.e. 2016, the age of the deceased at the time of the accident, i.e. 65 years as per the post mortem certificate, the cost of living due to inflation rate at the relevant point of time, the notional monthly income arrived at by the Tribunal at Rs.6,000/- erroneously considering the avocation of the deceased as 'coolie', is not just and proper and hence, even in the absence of evidence to show the monthly income of the deceased, it



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would be just and appropriate to fix the monthly notional income of the deceased at Rs.7,500/-. After deducting 1/3 towards personal expenses, the loss of monthly income would come to Rs.5,000/-. Since the deceased was aged 65 years old at the time of the accident, the multiplier of 7 adopted by the Tribunal is proper. Thus, the total compensation under the head of loss of income is redetermined at Rs.4,20,000/- ($7500 \times 2/3 \times 12 \times 7$).

9. In the opinion of this Court, the compensation amounts awarded under the other heads are just and reasonable and hence, the same are confirmed. In all, the total compensation is redetermined at Rs.4,90,000/-, which shall carry interest 7.5% p.a. from the date of the claim petition till the date of realisation.

10. In fine, this Civil Miscellaneous Appeal is partly allowed. In all, the total compensation is arrived at Rs.4,90,000/-, (Rupees fourteen lakhs ninety thousand only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as redetermined below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income ($7500 \times 1/3 \times 12 \times 7 \times 2$)	420000
2	Loss of Consortium	40000
3	Loss of Estate	15000
4	Funeral Expenses	15000
Total Compensation		490000

Out of the total compensation, the claimants 1 and 3 are entitled to their respective compensation amounts only as apportioned by the Tribunal with proportionate interest, which were stated to be already withdrawn by them. The 2nd claimant alone is entitled to the enhance compensation with interest



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on payment of proper court fee for the enhanced compensation amount. The Respondent Corporation is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited and also the interest for the period of delay in filing the appeal, if any, for the enhanced compensation, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer, by way of RTGS, the enhanced compensation amount with interest directly to the bank account of the 2nd claimant, who is the grand son of the deceased, within a period of three weeks thereafter. No costs.

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Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Additional District Judge (MACT) Ariyalur
2. The Record Keeper, VR Section, High Court, Madras



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KRISHNAN RAMASAMY, J.

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