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C.M.A.Nos.3413 and 3414 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.3413 and 3414 of 2024

1.Nathiya

2.Minor.Vikas

Minor represented by Next Friend & Guardian

Mother I Appellant

3.Saroja

... Appellants in C.M.A.3413/2024

Nathiya

... Appellant in C.M.A.3414/2024

Vs.

1.Velusamy

2.The Managing Director,

Tamil Nadu State Transport Corporation Ltd.,

Mettupalayam Road,

Coimbatore and District. ... Respondents in both the C.M.As.

Common Prayer:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award of the Motor Accidents Claims Tribunal, Sub-Court, Sathyamangalam and made in M.C.O.P.Nos.111 and 110 of 2019 respectively, dated 10.11.2023 praying to enhance the award.

For Appellants : Ms.P.T.Saleem Fathima

For Respondents : Mr.Murali Vinodh for R2



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COMMON JUDGMENT

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These appeals have been filed by the appellants/ claimants seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Sub-Court, Sathyamangalam, in the judgment dated 10.11.2023 made in M.C.O.P.Nos.111 and 110 of 2019 respectively.

2.Heard the learned counsel appearing for the appellants claimants as well as Mr.Murali Vinodh, learned counsel who takes notice on behalf of the second respondent. Both the learned counsel agreed for disposal of the appeals at the admission stage itself. Since the issue involved in these civil miscellaneous appeals are interrelated, they are heard together and disposed of by way of a common judgment.

3.The brief facts of the case is that on 10.02.2019 at about 17.35 hours, the deceased Shanmuga Sundaram (M.C.O.P.No.111 of 2019) drove his Omni Car bearing Registration No.TN 69 F 6982 with his wife Nathiya (M.C.O.P.No.110 of 2019) as occupant on Kunnathur to Gobi Road Nettichipalayam near Bus Stop in North to South



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direction. At that time, the driver of the bus bearing Registration No.TN 39 N 0150 belonging to the second respondent, which came in the opposite direction, drove the vehicle in a rash and negligent manner and dashed against the omni car, due to which, the deceased lost his life and his wife Nathiya sustained injuries.

4. Thereafter, the dependants of the deceased and the injured claimant filed claim petitions before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs each. After adjudication, the Tribunal, awarded a sum of Rs.31,74,000/- and Rs.8,88,870/- respectively, with interest at the rate of 7.5% p.a. from the date of petition till realization and proportionate cost and directed the second respondent transport Corporation to deposit the award amount. Aggrieved by the same, the dependants of the deceased and the injured claimant have filed these appeals seeking enhancement of compensation.

5. The learned counsel appearing for the appellants/ claimants submitted that the accident is of the year 2019, however, the Tribunal fixed the monthly income of the deceased at Rs.15,000/- which is very meagre and further submitted that the compensation awarded under



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the other heads are also very meagre. The learned counsel further submitted that due to the accident, the foetus in the womb of the injured claimant got aborted, however, the Tribunal did not award any compensation for loss of foetus and further submitted that the injured claimant is a tailor and she was earning a sum of Rs.15,000/- per month and after the accident, she is not able to continue her avocation as before, however, the Tribunal awarded only a sum of Rs.5,000/- per percentage of disability and awarded a meagre compensation under the head permanent disability and loss of earning power and further submitted that the compensation awarded under the other heads are also very meagre. Hence the appellants are entitled for enhancement in compensation.

6.The learned counsel appearing for the second 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.

7.The accident and the manner in which the accident happened



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are not disputed. These appeals have been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.In M.C.O.P.No.111 of 2019 [C.M.A.No.3413 of 2024], the Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.30,24,000/- loss of dependency, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses, Rs.1,20,000/- for loss of consortium and arrived at a total compensation of Rs.31,74,000/- with interest at the rate of 7.5% p.a. from the date of petition till realization.

9.The accident is of the year 2019. Hence, this Court fix a sum of Rs.16,000/- as the monthly notional income of the deceased. The Tribunal has rightly awarded 40% future prospects and has rightly deducted 1/3 of the amount towards personal expenses and has rightly adopted the multiplier 18. Accordingly, the amount awarded for loss of dependency works out to Rs.32,25,528/- [Rs.16,000/- X 40% = Rs.6,400/-; Rs.16,000/- + Rs.6,400/- = Rs.22,400/-; Rs.22,400/- X 1/3 = Rs.7,466.66; Rs.22,400/- - Rs.7,466.66 = Rs.14,933.34; Rs.14,933/- X 12 X 18 = Rs.32,25,528/-].



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10.The amount awarded under the other heads, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the other heads. Accordingly, the amount awarded for loss of estate is enhanced to Rs.16,500/- from Rs.15,000/-, the amount awarded for funeral expenses is enhanced to Rs.16,500/- from Rs.15,000/-, the amount awarded for loss of consortium is enhanced to Rs.1,32,000/- from Rs.1,20,000/-.

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

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependancy	Rs.30,24,000/-	Rs.32,25,528/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 16,500/-
3.	Loss of consortium	Rs. 1,20,000/-	Rs. 1,32,000/-
4.	Loss of estate	Rs. 15,000/-	Rs. 16,500/-
	Total	Rs.31,74,000/-	Rs.33,90,528/-

12.The claimants are entitled to total compensation of Rs.33,90,528/- along with interest at the rate of 7.5% p.a. from the date of petition till realization.



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13.The second respondent Transport Corporation is directed to 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 appellants 1 and 3/ claimants are permitted to withdraw their respective shares 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 second appellant is permitted to withdraw his share 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 second appellant is still minor, his share 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 he attain majority and the interest derived from out of the said share of the minor shall be paid to the first claimant/ mother every quarter to be utilized for the welfare of the said minor.

14.The appellants/ claimants shall not be entitled to any interest



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for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, Sub-Court, Sathyamangalam, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

15.In M.C.O.P.No.110 of 2019 [C.M.A.No.3414 of 2024], the Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,12,000/- for loss of earnings, Rs.5,000/- for transport to hospital, Rs.5,000/- for extra nourishment, Rs.5,000/- for attender charges, Rs.3,000/- for damage for clothes and articles, Rs.5,88,870/- for medical expenses, Rs.70,000/- for pain and sufferings, Rs.1,00,000/- for permanent disability and loss of earning power and arrived at a total compensation of Rs.8,88,870/- with interest at the rate of 7.5% p.a. from the date of petition till realization.

16.The Medical Board has assessed the disability of the injured claimant as 20% partial permanent disability. The accident is of the year 2019. At the relevant point of time Rs.8,000/- per percentage



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was awarded. Accordingly, this Court awards a sum of Rs.1,60,000/- [20% X Rs.8,000/-] for disability. Since compensation for disability has been awarded, the amount awarded under the head Permanent disability and loss of earning power, in the opinion of this Court is not necessary and the same is deleted.

17.Due to the accident, the foetus in the womb of the injured claimant got aborted, however, the Tribunal has not awarded any compensation for the same and this Court is of the opinion that some amount has to be awarded for loss of foetus. Accordingly, this Court awards a sum of Rs.1,00,000/- for loss of foetus.

18.The amount awarded under the heads transport to hospital, extra nourishment and attender charges, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for transport to hospital is enhanced to Rs.10,000/- from Rs.5,000/-, the amount awarded for extra nourishment is enhanced to Rs.25,000/- from Rs.5,000/- and the amount awarded for attender charges is enhanced to Rs.10,000/- from Rs.5,000/-. The amount awarded under the heads loss of earnings and damages for clothes and articles, in the



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opinion of this Court are high and this Court is inclined to reduce the amount awarded under the said heads. Accordingly, the amount awarded for loss of earnings is reduced to Rs.30,000/- from Rs.1,12,000/-, the amount awarded for damages for clothes and articles is reduced to Rs.1,000/- from Rs.3,000/-. The amount awarded under the heads medical expenses and pain and sufferings, in the opinion of this Court are just and reasonable and the same are confirmed.

19. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of earnings	Rs.1,12,000/-	Rs. 30,000/-
2.	Transport to hospital	Rs. 5,000/-	Rs. 10,000/-
3.	Extra nourishment	Rs. 5,000/-	Rs. 25,000/-
4.	Attender charges	Rs. 5,000/-	Rs. 10,000/-
5.	Damages for clothes and articles	Rs. 3,000/-	Rs. 1,000/-
6.	Medical expenses	Rs.5,88,870/-	Rs.5,88,870/-
7.	Pain and sufferings	Rs. 70,000/-	Rs. 70,000/-
8.	Permanent disability and loss of earning power	Rs.1,00,000/-	---
9.	Disability	---	Rs.1,60,000/-
10.	Loss of foetus	---	Rs.1,00,000/-
	Total	Rs.8,88,870/-	Rs.9,94,870/-



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20.The injured claimant is entitled to total compensation of Rs.9,94,870/- along with interest at the rate of 7.5% p.a. from the date of petition till realization.

21.The second respondent Transport Corporation is directed to 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 appellant/ claimant is permitted to withdraw the entire award amount, 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 appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, Sub-Court, Sathyamangalam, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

22.The civil miscellaneous appeals are partly allowed. The



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judgment and decree passed by the Motor Accidents Claims Tribunal,
Sub-Court, Sathyamangalam, in the judgment dated 10.11.2023 made
in M.C.O.P.Nos.111 and 110 of 2019 respectively, is modified to the
above extent. No costs.

21.12.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
Sub-Court, Sathyamangalam.



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M.DHANDAPANI,J.
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