



CMA No.1670 of 2021 & Cross Obj.No.90 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1670 of 2021 & CMP No.8892 of 2021
and Cross Obj.No.90 of 2021

Judgment reserved on 26.02.2024	Judgment pronounced on 16.04.2024
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The Managing Director
Tamil Nadu State Transport Corporation
(Coimbatore Division-1) Ltd.,
Mettupalayam Road,
Coimbatore – 43. ...

Appellant in CMA No.1670 of 2021 &
Respondent in Cross Obj.No.90 of 2021

Vs.

1. S.Devaraj
2. D.Tamilselvi

... Respondents in CMA No.1670 of 2021 &
Cross Objectors in Cross Obj. No.90 of 2021

PRAYER in CMA No.1670 of 2021 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 13.12.2018 made in MCOP No.1905 of 2016 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Judge, Tiruppur.

PRAYER in Cross Obj.No.90 of 2021 : Cross Objection Appeal filed under Order XLI Rule 22 of CPC to enhance the award made in the judgment and decree dated 13.12.2018 made in MCOP No.1905 of 2016 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Judge, Tiruppur.



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In both cases

For Appellant in }
CMA No.1670 of 2021 }
& Respondent in Cross Obj. } : Mr.M.Murali Vinodh
No.90 of 2021 } Standing Counsel

For Respondents in }
in CMA No.1670 of 2021 } : Mr.Ma.P.Thangavel
& Cross Objectors in }
CMA No.90 of 2021 }

COMMON JUDGMENT

Parties are referred to as per their ranking in the claim petition for the sake of convenience.

2. CMA No.1670 of 2021 has been filed by the Transport Corporation challenging the award made in MCOP No.1905 of 2016 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Judge, Tiruppur on the point of liability as well as quantum of compensation awarded by the Tribunal.

3. Cross Objection No.90 of 2021 has been filed by the claim petitioners challenging the very same award seeking enhancement of compensation.



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4. The factum of accident, manner of accident, rash and negligent driving on the part of the driver of the bus belonging to the Transport Corporation are not in dispute. Accordingly, the findings rendered by the Trial Court with regard to negligence is hereby confirmed.

5. On the point of quantum of compensation, heard the learned counsel appearing for the claim petitioners as well as respondent/transport corporation and perused the materials available on record.

6. From the materials on record, it is seen that the deceased was said to have been working as Quality Manager in Classic Polo (Banian Company), Tirupur and the co-worker was examined as PW3 – Muthukumar who has deposed that he was also working in the very same company and in the very same capacity as Quality Manager and earning Rs.30,000/- per month. The Trial Court, on consideration of oral and documentary evidence, fixed the notional income of the deceased at Rs.18,000/- per month. Considering the age of the deceased as 24 years, as per Ex.P2-postmortem certificate, the Tribunal awarded 40% enhancement towards future prospects. Thus, a sum of Rs.27,21,600/- (18,000 + 7200 (18000 x 40%) x 12 x 18 x 50%) has been awarded as compensation



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towards loss of income which is just and fair and hence the same is hereby confirmed. The Tribunal has awarded a sum of Rs.1,30,000/- (RS.50,000 + RS.80000) towards loss of love & affection and the same is hereby enhanced to Rs.1,50,000/-. The Tribunal has not awarded any amount towards loss of estate and hence a sum of Rs.15,000/- is awarded under the said head. The amounts awarded by the Tribunal under the head transportation is hereby enhanced to Rs.15,000/- and the amount awarded towards funeral expenses is hereby confirmed. Accordingly, the order passed by the Tribunal in respect of quantum is modified and enhanced from **Rs.28,50,000/- to Rs.29,17,000/-** alongwith interest @ 7.5% per annum, break-up as follows -

<i>Sl. No</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal – Rs.</i>	<i>Amount awarded by this Court – Rs.</i>
1	Loss of income	27,21,600/-	27,21,600/-
2	Loss of love & affection	1,30,000/- (50000 + 80000)	1,50,000/- (75000 x 2)
3	Transportation expenses	10,000/-	15,000/-
4	Funeral expenses	15,000/-	15,000/-
5	Loss of estate	-	15,000/-
	Total	28,76,600/- Rounded off to 28,50,000/-	29,16,600/- Rounded off to 29,17,000/-



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7. In fine,

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(i) CMA No.1670 of 2021 filed by the transport corporation is dismissed. Consequently, connected Miscellaneous Petition is closed.

(ii) Cross Objection No.90 of 2021 filed by the claim petitioners is partly allowed enhancing the compensation from **Rs.28,50,000/-** to **Rs.29,17,000/-** alongwith interest @ 7.5% per annum from the date of petition till the date of deposit.

(iii) the respondent/Transport Corporation is directed to deposit the enhanced award amount before the Tribunal, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iv) on such deposit being made, the claim petitioners are permitted to withdraw the entire enhanced award amount with accrued interest and costs, on the basis of apportionment fixed by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.



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(v) the claim petitioners are directed to pay the court fee, if any,

for the enhanced compensation amount and the Registry is directed to draft

the decree only after the receipt of Court fee. No costs.

16.04.2024

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Index : Yes/No

Speaking/Non-speaking order

To

1.The II Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
Tiruppur.

2.The Section Officer,
V.R. Section,
High Court,
Madras.



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RMT.TEEKAA RAMAN, J.

rgr

Judgment in
C.M.A.Nos.1670 of 2021 & Cross Obj.No.90 of 2021

16.04.2024