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C.M.A.No.3107 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

C O R A M

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

C.M.A.No.3107 of 2023

and

C.M.P.No.29348 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Villupuram

...Appellant

Vs

1.Indira Gandhi

2.Vinitha

3.Vidhya

4.Sangeetha

5.Ramkumar

Ramasamy (died)

[** Amended as per the judgment and decree in
IA.No.621 of 2018 dated 19.03.2018]

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 05.06.2018 in MCOP.No.171 of 2015 on the file of the Motor Accident Claim Tribunal, III Additional District Judge, Kallakurichi.



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For Appellant : Mr.K.T.Sivakumar

For Respondents : Service awaited for R1 to R5

JUDGMENT

This civil miscellaneous appeal has been filed to enhance the compensation awarded vide the judgement dated 05.06.2018 in MCOP.No.171 of 2015.

2. The learned counsel for the appellants would submit that on 12.08.2010 while one Chandran was driving his vehicle at Sothuppakkam Bridge, a bus bearing Registration No.TN 32 N 2847 came in a rash and negligent manner and dashed against him, due to which he was admitted at the Chengalpattu Government Medical Hospital and died during the treatment. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	16,68,408
2	Funeral Expenses	25,000



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
3	Loss of Consortium	20,000
4	Loss of Love and Affection	40,000
	Total	17,53,408
	Rounded off	17,50,500

3. Further, he would submit that the Tribunal has taken a sum of Rs.9,458/- as income of the deceased, which is on higher side and hence, he requests this Court to re-determine the same.

4. Heard the learned counsel for the appellant and also perused the materials available on record.

5. In the present case, the Tribunal has taken a sum of Rs.9,458/- as income of the deceased based on the salary slip, which was marked as Ex.P4 and hence, the same appears to be just and reasonable since the deceased was a driver and the accident is of the year 2010.

6. Further, with regard to the other heads, this Court is inclined to re-determine the same as follows:

i) The Tribunal had awarded a sum of Rs.25,000/-



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towards funeral expenses, which is on higher side and hence, this Court is inclined to award a sum of Rs.15,000/-.

ii) The Tribunal had awarded a sum of Rs.20,000/- towards loss of consortium, which is on lower side and hence, this Court is inclined to award a sum of Rs.40,000/-.

iii) The Tribunal had awarded a sum of Rs.40,000/- (Rs.10,000/- each) towards loss of love and affection, which is on lower side and hence, this Court is inclined to award a sum of Rs.1,60,000/- (Rs.40,000/- each).

7. It is settled law that the appellate court in motor accident claim cases has the power to enhance the compensation awarded, even in the absence of a cross-appeal or cross-objections by the claimants. This power is granted under the provisions of the Motor Vehicles Act and Order XLI Rule 33 of the Code of Civil Procedure.

8. In “*The National Insurance Company Limited VS Ramavath Papa, W/o. Lulu Naik*”, the Hon’ble Supreme Court has discussed the scope of Order XLI Rule 33 and the power of the high court to enhance the award amount in



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accident cases in the absence of cross-objections. It has been held that there is no limitation or restriction for awarding just compensation, and if the tribunal or Court considers that the claimant is entitled to more compensation than claimed, it may pass such an award and enhance the compensation at the appellate stage, even without the injured party filing an appeal or cross-objections.

9. Therefore, though this Court is conscious that this appeal has been preferred by the appellant/Transport Corporation, questioning the quantum of compensation as excessive, however, in order to render substantial justice to the claimants/respondents, this Court, having regard to the decision of the Hon'ble Supreme Court cited supra and considering the fact that the Tribunal has granted the compensation, which is not just and fair, feels it appropriate to enhance the same.

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



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S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Loss of Income	16,68,408	16,68,408
2	Funeral Expenses	25,000	15,000
3	Loss of Consortium	20,000	40,000
4	Loss of Love and Affection	40,000	1,60,000
	Total	17,53,408	18,83,408
	Rounded off	17,53,500	18,83,500

11. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.18,83,500/-. Accordingly, the award amount stands enhanced from a sum of Rs.17,53,500/- to Rs.18,83,500/-. In all other aspects, the award of the Tribunal stands confirmed.

12. In the result, this Civil Miscellaneous Appeal is dismissed and the appellant is directed to deposit a sum of Rs.18,83,500/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.171 of 2015 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Kallakurichi. Further, the claimants shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to



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immediately transfer the entire amount to the respective bank accounts of the claimants by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimants or application for withdrawal from the claimant, whichever is earlier. No costs. Consequently, the connected miscellaneous petition is also closed.

30.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
III Additional District Judge, Kallakurichi



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KRISHNAN RAMASAMY,J.

nsa

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