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C.M.A.No.3202 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3202 of 2024

1. Maheswari
 2. S.Abinaya (minor)
 3. S.Abinesh (minor)
- (Petitioners 2 and 3 are minors represented by
their mother and next friend/first appellant)

... Appellants / Petitioners

Vs.

The Managing Director,
Metropolitan Transport Corporation Limited,
Chennai - 2.

... Respondent / Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decreetal order dated 21.06.2024 made in M.C.O.P.No.3549 of 2018 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellants : Mr.K.Balaji

For Respondent : Mr.Murali Vinoth



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J U D G M E N T

This appeal has been filed by the appellants / claimants seeking for enhancement of compensation awarded by the Motor Accident Claims Tribunal (In the IV Court of Small Causes), Chennai, in M.C.O.P.No.3549 of 2018, dated 21.06.2024.

2. It is the case of the claimants that, on 02.01.2018, at about 08.50 hrs, while the deceased, namely, Senthil Kumar, was crossing the road, a bus bearing Registration No.TN-01-N-7898 belonging to the respondent / Transport Corporation was driven by its driver in a rash and negligent manner and hit against the deceased, due to which, the deceased sustained grievous injuries and died on the spot. Claiming compensation for a sum of Rs.75,00,000/- on the ground that, the deceased was the sole bread winner of the family and he was earning a sum of Rs.800/- per day, the claim petition was filed by the claimants, who are the wife, daughters and the mother of the deceased Senthil Kumar. Pending claim petition, the fourth claimant died.



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3. Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 were examined and Exs.P1 to P11 were marked. On the side of the respondent / Transport Corporation, R.W.1 was examined and Ex.R1 was marked. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving of the bus belonging to the respondent / Transport Corporation. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.18,47,500/- under various heads. The Tribunal directed the compensation to be paid by the respondent / Transport Corporation along with 7.5% interest.

4. The appellants / claimants were not satisfied with the compensation awarded by the Tribunal and hence, they have filed this appeal seeking for enhancement of compensation.



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7. I have considered the said submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

8. The bone of contention is with regard to the notional income fixed by the Tribunal. The accident had taken place in the year 2018 and the claimants came up with a case that the deceased was a Mason and he was earning a sum of Rs.800/- per day which comes around to Rs.24,000/- per month. The Tribunal has fixed only a sum of Rs.11,000/- as the notional monthly income. It is definitely on the lower side. Hence, this Court is inclined to enhance the notional monthly income at Rs.15,000/-.

9. The deceased was aged 44 years at the time of accident and he was not a permanent job holder. Hence, the claimants are entitled to only 25% towards future prospects as per the judgment of this Court cited *supra*. Though the fourth claimant who is the mother of the deceased died, at the



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time of filing the petition, she was alive, therefore, the Tribunal added her as one of the dependents and this Court also confirms the same. Further the Tribunal has rightly applied multiplier '14' and deducted 1/4 towards personal expenses. Thus, by fixing a sum of Rs.15,000/- as monthly income of the deceased, granting 25% towards future prospects and after deducting 1/4th towards personal expenses, the compensation awarded by the Tribunal towards loss of dependency is modified to:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects 25% of Rs.15,000/-	:	Rs. 3,750/- ----- Rs. 18,750/-
Annual Income (18,750 * 12)	:	Rs. 2,25,000/-
Less : Personal expenses Rs.2,25,000/- * 1/4	:	Rs. 56,250/- ----- Rs. 1,68,750/- x 14
Multiplier	:	----- x 14
Loss of dependency	:	Rs.23,62,500/- -----



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10. Insofar as the loss of consortium is concerned, the Tribunal has only granted a sum of Rs.80,000/- for the claimant Nos.1 to 3 and hence, this Court is inclined to enhance the compensation awarded under the head loss of consortium and fix it at Rs.40,000/- for each of the claimant Nos.1 to 3, however, the Tribunal has not granted any compensation to the fourth claimant/mother of the deceased under the head loss of consortium, even though the Tribunal has added her as one of the dependents and hence, this Court is inclined to award a sum of Rs.40,000/- to the mother of the deceased under the head loss of consortium. Thereby, the total compensation under the head loss of consortium is enhanced from Rs.80,000/- to Rs.1,60,000/-. Since the funeral expenses includes transportation charges, the transportation charges awarded by the Tribunal is hereby cancelled. This Court finds that the compensation awarded under the other heads is just and reasonable and does not require any interference.



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11. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Loss of dependency	17,32,500/-	23,62,500/-
2	Loss of consortium (Rs.40,000/- * 4)	80,000/-	1,60,000/-
3	Loss of estate	15,000/-	15,000/-
4	Loss of funeral expenses	15,000/-	15,000/-
5	Loss of transportation	5,000/-	-
	Total	18,47,500/-	25,52,500/-

12. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.18,47,500/- is hereby enhanced to Rs.25,52,500/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The respondent / Transport Corporation is directed to deposit the entire award



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amount now determined by this Court 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 M.C.O.P.No.3549 of 2018 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai. On such deposit, the first appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn as per the apportionment fixed by the Tribunal by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

13. Insofar as the appellants 2 and 3, viz., the minor daughters of the deceased are concerned, since they are yet to attain majority, the Tribunal is directed to keep their share in deposit in an interest yielding fixed deposit with any one of the Nationalised Banks, initially for a period of three years to be renewed at periodic intervals until the minors attain majority and the interest derived from out of the said share of the minors



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shall be paid to the first appellant/ mother every quarter to be utilised for the welfare of the said minors. Upon attaining majority and upon proper proof being filed substantiating attainment of majority, the Tribunal is directed to transfer the share of the appellants 2 and 3 directly to the Bank account of the appellants 2 and 3 through RTGS. Since the fourth claimant passed away pending claim petition, the compensation awarded to her shall be apportioned in equal shares between the appellants/claimants 1 to 3. There shall be no order as to costs.

10.12.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

1. The Motor Accidents Claims Tribunal,
IV Court of Small Causes,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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