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C.M.A.No.42 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

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1. N.Amutha
2. G.Natarajan
3. N.Nesamani

... Appellants/Petitioners

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai, Chennai 600 002.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the order made in M.C.O.P.No.3271 of 2017, dated 10.03.2023, on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, at Chennai.

For Appellants : Mr.Amar Dineshbhai
Pandiya

For Respondent : Mr.M.Murali Vinodh

JUDGEMENT



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This Civil Miscellaneous Appeal has been filed, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Special Sub Court No.1 in M.C.O.P.No.3271 of 2017 dated 10.03.2023, the claimants are before this Court.

2. The brief facts are as follows:-

The appellants/petitioners are the mother, father and brother of deceased Lakshmanan. On 25.02.2017 at about 22.30 hours, the first petitioner/appellant's son was riding a two wheeler bearing Reg.No.TN-10-AK-5034 proceeding towards Madavakkam to Sollinganallore, at that time, a MTC Bus bearing Registration No.TN-01-N-7857, driven by its driver in a rash and negligent manner, dashed against the deceased, as a result of which, the back wheel of the bus run over the deceased, and sustained grievous injuries and died on the spot. Thereafter, the appellants have filed a claim petition before the Tribunal, claiming a compensation of Rs.40,00,000/-.

3. The learned counsel for the appellants submitted that at the time



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of accident, the deceased was working as a Supervisor in Sakthi Agencies and was earning Rs.25,000/- per month. However, the Tribunal fixed the monthly income notionally at a sum of Rs.10,000/-, which is on lower side and the same is required to be enhanced. Accordingly, he prays for appropriate enhancement of the compensation in favour of the appellants.

4. Per contra, the learned counsel appearing for the respondent/Transport Corporation would fairly submit that appropriate compensation may be granted by fixing the fair notional income of the deceased.

5. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the respondent and perused the materials available on record.

6. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The only grievance of the appellants is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellants that though the



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deceased was aged 30 years at the time of accident and earning a sum of Rs.25,000/- per month, but without considering the same, the Tribunal had erroneously fixed the notional income at Rs.10,000/- per month. Therefore, this Court is of the view that the notional income of the deceased fixed by the Tribunal is very meagre and it is required to be modified. Applying the ratio laid down by the Hon'ble Apex Court, this Court feels it appropriate to fix notional monthly income at Rs.15,000/- per month and adding future prospects at 40%, the total income per month is quantified at Rs.21,000/- per month. Since the deceased was a bachelor at the time of the accident, 50% has to be deducted towards his personal and living expenses of the deceased, the loss of income to the family is arrived at Rs.10,500/- per month and the deceased was aged about 30 years at the time of accident as evidenced from the records, adopting the multiplier of 17 as fixed by the Apex Court, the loss of income to the family is arrived at $\text{Rs.10,500/-} \times 12 \times 17 = \text{Rs.21,42,000/-}$, which is worked out as follows :-

<i>Loss of Income</i>	<i>Amount in Rs.</i>
Notional income (Per month)	15,000



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<i>Loss of Income</i>	<i>Amount in Rs.</i>
Add: Future Prospects (Rs.15,000 x 40%) (Per month)	6,000
	21,000
Less: Personal expenses (50%) (Rs.21,000/- x 50/100) (Per month)	10,500
	10,500
Notional income (per annum) (Rs.10,500/- x 12)	1,26,000
Multiplier	17
Total	21,42,000

7. Apart from "loss of income", the amount awarded by the Tribunal under all other heads, stands confirmed. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of Income	15,87,600/-	21,42,000/- (enhanced)
Loss of love and affection in respect of appellants 1 & 2	80,000/-	80,000/-
Funeral expenses	15,000/-	15,000/-
Loss of estate	15,000/-	15,000/-
Total	16,97,600/-	22,52,000/-



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8. Accordingly, the Appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.16,97,600/-** to **Rs.22,52,000/-**. The respondent/Transport Corporation is directed to deposit the said amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.3271 of 2017 on the file of Special Sub Court No.1, Chennai. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the respective bank accounts of the claimants, the petitioners/claimants are entitled to receive equal amount of compensation, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimants or application for withdrawal from the claimant, whichever is later. The appellants/claimants are directed to pay the necessary Court fee for the enhanced compensation amount. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. No costs.



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Index : Yes / No
NCC : Yes / No
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To

1. The Motor Accident Claims Tribunal,
Special Sub Court No.1,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,

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