



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.481 of 2024

1.Rajathi

2.Ammasi

3.Lakshmi

4.Alamelu

5.Thangamai

6.Pappathi

..Appellants

.VS.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Salem - 7.

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 20.03.2020 in MCOP No.06 of 2014 on the file of the Motor Accident Claims Tribunal, Sub Court, Mettur.

For Appellant : Mr.S.P.Yuvaraj

For Respondents : Mr.Nitin



JUDGMENT

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The claimants not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.06 of 2014, dated 20.03.2020 have filed this appeal seeking for enhancement of compensation.

2.The claimants are the wife and children of deceased Ramar. The case of the claimants is that the deceased Ramar in order to sell the vegetables at the Uzhavar Santhai at Mettur was travelling in the bus belonging to the respondent Corporation on 07.09.2013. When the bus came near Kauveri Nagar bus stop, the driver of the bus drove the vehicle in a rash and negligent manner and as a result, the deceased was thrown out of the vehicle and he sustained grievous injuries. Unfortunately, he died due to the injuries sustained by him. An FIR came to be registered in Crime No.862 of 2013 against the driver of the bus. It is under these circumstances, the claimants filed the claim petition seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the respondent Corporation. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.2,85,000/- in the

following manner:

<https://www.mhc.tn.gov.in/judis>



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income	2,40,000
2.	Love and affection	25,000
3.	Transportation Charges	5,000
4.	Funeral Expenses	15,000
	Total	2,85,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal have filed the present appeal seeking for enhancement of compensation.

6.Heard Mr.S.P.Yuvaraj, learned counsel appearing on behalf of the appellant and Mr.Nitin, learned counsel appearing on behalf of the respondent.

7.This Court has carefully considered the submissions made on either side and the materials available on record and also carefully gone through the Award passed by the Tribunal.



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8.The main ground that was urged by the learned counsel for the appellant is with regard to the notional monthly income that was fixed by the Tribunal at Rs.6,000/- per annum. The learned counsel submitted that the deceased was an agriculturalist and he was regularly selling vegetables in the Uzhavar Santhai which is evident from Ex.P18. Therefore, the learned counsel submitted that the notional monthly income fixed by the Tribunal is on the lower side. The next ground that was urged by the learned counsel for the appellant is that the Tribunal did not fix any compensation under the head of loss of love and affection.

9.The learned counsel for the respondent Corporation submitted that the Tribunal had fixed a very reasonable compensation in this case, considering the age of the deceased who was 75 years and also considering the fact that all the children were major and there was absolutely no material to show the earnings of the claimant. Therefore, the learned counsel urged this Court to dismiss this appeal.

10.In the instant case, the accident had taken place in the year 2013. It is clear from Ex.P18 that the deceased was a member of the Uzhavar Santhai at Mettur. This means that the deceased was regularly going to the Uzhavar Santhai and was selling vegetables. Therefore, this Court is inclined to fix the notional monthly income of the claimant at Rs.7,500/-



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11.If this notional income is fixed, the total compensation under the head of loss of income will come to Rs.3,00,000/- (Rs.7,500 - $\frac{1}{3} \times 12 \times 5$)

12.The Tribunal has not granted any compensation under the head of love and affection and has rather granted compensation under the head of pain and sufferings. Therefore, this Court is inclined to alter the head under which the compensation was given and a sum of Rs.2,40,000/- (Rs.40,000/- x 6) is fixed.

13.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income	3,00,000
2.	Love and affection	2,40,000
3.	Transportation Charges	5,000
4.	Funeral Expenses	15,000
	Total	5,60,000

14.The compensation awarded by the tribunal at Rs.2,85,000/- is enhanced to Rs.5,60,000/-. The respondent Transport Corporation is directed to deposit the enhanced compensation of Rs.5,60,000/-, less the amount already deposited, together



with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.2,75,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 563 days as was ordered by this Court in C.M.P.No.28805 of 2023, dated 06.02.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

15.This Civil Miscellaneous Appeal is disposed of in the above terms. No costs.

26.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr



To

WEBKIN The Motor Accident Claims Tribunal, Sub Court, Mettur.



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N. ANAND VENKATESH., J

SSR

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