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C.M.A.No.175 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

C O R A M

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

C.M.A.No.175 of 2024

1.Kalpana
2.K.Raghu
3.K.Vanitha
4.Valliammal

...Appellant

Vs

The Managing Director,
Tamil Nadu State Transport Corporation (Coimbatore Division) Limited,
37, Mettupalayam Road, Coimbatore - 43.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation awarded in MCOP.No.499 of 2009 vide order dated 25.02.2013 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Erode.



C.M.A.No.175 of 2024

For Appellant : Ms.D.Jevitha,
for Mr.R.Nalliyappan

For Respondent : Mr.M.Murali Vinodh,
Standing counsel.

JUDGMENT

This civil miscellaneous appeal has been filed to enhance the compensation awarded vide the judgement dated 25.02.2013 in MCOP.No.499 of 2009.

2. The learned counsel for the appellants would submit that on 25.05.2009, while one Kumarasamy was proceeding in his bicycle at Kangayam to Tiruppur Main Road, the respondent Corporation bus bearing Registration No.TN-33-N-2202 came in a rash and negligent manner and dashed against the said Kumarasamy, due to which he was died at the Coimbatore Medical College Hospital on the same day. Considering all the aspects the Tribunal had awarded the following compensation:



WEB COPY

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	6,00,000
2	Loss of Consortium	25,000
3	Loss of Love and Affection	25,000
4	Transport Charges	5,000
5	Funeral Expenses	5,000
6	Loss of Estate	2,500
	Total	6,62,500

3. Further, he would submit that there is no dispute with regard to the occurrence of accident or liability fastened by the Tribunal. However, the main contention of the claimants was that the accident was occurred in the year 2009 and at the time of accident, the deceased was working in a company and hence, even assuming that he was worked as Office Assistant in the said Company, the notional income of the deceased fixed by the Tribunal (Rs.5,000/-) appears to be on the lower side. Hence, he requests this Court to fix any reasonable amount as the notional income of the deceased.

4. In reply, the learned counsel for the respondent would fairly suggest this Court to fix a sum of Rs.9,000/- as notional income of the deceased and the same was also accepted by the appellant.



C.M.A.No.175 of 2024

WEB COPY

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

6. In view of the above, this Court is inclined to fix a sum of Rs.9,000/- as notional income of the deceased. Further, it appears that at the time of death, the deceased was aged about 45 years, however, the Tribunal had wrongly applied the multiplier as '15' instead of '14'. Hence, by applying '14' as multiplier and adding 25% as future prospects and by deducting 1/4 towards the personal expenses of the deceased, the loss of income would be calculated as follows:

$$\begin{aligned} &\text{Rs.9,000/- (notional income) + Rs.2,250/- (25\% future prospects)} \\ &* 14 \text{ (multiplier)} * 12 \text{ (months)} * \frac{3}{4} \text{ (dependency)} = \text{Rs.14,17,500/-} \end{aligned}$$

7. Further, the Tribunal had only awarded a sum of Rs.25,000/- towards loss of consortium to the wife of the deceased. Hence, the same is enhanced to a sum of Rs.40,000/-. Since only a sum of Rs.25,000/- has been awarded under the head loss of love and affection, the same is enhanced to a sum of Rs.1,20,000/- (Rs.40,000/- each) to the appellants 2 to 4. It is also appears that the amount awarded towards the funeral expenses and loss of estate are on



lower side and hence, the same is enhanced to a sum of Rs.15,000/- each.

WEB COPY

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

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Income	6,00,000	14,17,500
2	Loss of Consortium	25,000	40,000
3	Loss of Love and Affection	25,000	1,20,000
4	Transport Charges	5,000	5,000
5	Funeral Expenses	5,000	15,000
6	Loss of Estate	2,500	15,000
7	Total	6,62,500	16,12,500

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.16,12,500/-. Accordingly, the award amount stands enhanced from a sum of Rs.6,62,500/- to Rs.16,12,500/-. In all other aspects, the award of the Tribunal stands confirmed. The compensation awarded by this Court shall be distributed to the claimants in the following proportions:

a) to the 1st appellant/wife of the deceased – Rs.8,00,000/-;



C.M.A.No.175 of 2024

WEB COPY

b) to the appellants 2 and 3/children of the deceased –
Rs.3,00,000/- each;

c) to the 4th appellant/mother of the deceased –
Rs.2,12,500/-;

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the respondent is directed to deposit a sum of Rs.16,12,500/- 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.499 of 2009 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Erode. Further, the appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the respective bank accounts of the claimants by way of RTGS, in the proportions determined by this Court, 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 claimants, whichever is earlier. No costs.



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C.M.A.No.175 of 2024

31.01.2024

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

To:

The Motor Accident Claims Tribunal,
Principal District Judge, Erode.



WEB COPY



C.M.A.No.175 of 2024

KRISHNAN RAMASAMY,J.

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C.M.A.No.175 of 2024

31.01.2024