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C.M.A.Nos.2117 of 2019 and 3003 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.Nos.2117 of 2019 and 3003 of 2021

1. Lakshmi
2. Selvaraj
3. Indhumathi
4. Rajasekaran
5. Tamil Selvan

... Appellants in C.M.A.No.2117 of 2019

The Managing Director,
Metropolitan Transport Corporation Ltd.,
(Chennai Division-I) Ltd
Anna Salai, Chennai – 2.

... Appellant in C.M.A.No.3003 of 2021

Vs.

The Managing Director,
MTC.(Chennai Division-I) Ltd.,
Anna Salai, Chennai – 02.

... Respondent in C.M.A.No.2117 of 2019

1. Lakshmi
2. Selvaraj
3. Indhumathi
4. Rajasekaran
5. Tamil Selvan

... Respondents in C.M.A.No.3003 of 2021



C.M.A.Nos.2117 of 2019 and 3003 of 2021

Prayer in C.M.A.No.2117 of 2019 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree of the learned Motor Accidents Claims Tribunal Additional District Judge – IV at Ponneri, made in M.C.O.P.No.428 of 2013 dated 19.09.2017.

Prayer in C.M.A.No.3003 of 2021 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.09.2017 made in M.C.O.P.No.428 of 2013 on the file of Motor Accidents Claims Tribunal (IV Additional District Judge Court, Thiruvallur @ Ponneri.

C.M.A.No.2117 of 2019 :

For Appellants : Mrs.A.Subadra for M/s.K.M.Ramesh

For Respondent : Mr.A.Vinothraj

C.M.A.No.3003 of 2021:

For Appellant : Mr.A.Vinothraj

For Respondents : Mrs.A.Subadra for M/s.K.M.Ramesh

COMMON JUDGEMENT

Aggrieved by the compensation granted by the Motor Accidents Claims Tribunal (IV Additional District Judge Court, Thiruvallur @ Ponneri in M.C.O.P.No.428 of 2013 dated 19.09.2017, the claimants as well as the



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insurance company have filed the respective appeals before this Court.

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2. For the sake of convenience the appellants in C.M.A.No.2117 of 2019 in hereinafter referred to as claimants and the appellants in C.M.A.No.3003 of 2021 is hereinafter referred to as Transport Corporation.

3. Brief facts which are necessary for disposal of these appeals are as follows:-

(i) The claimants are wife, sons and daughter of the deceased. On 04.03.2013, at about 9.30 p.m., when the deceased namely Vallal Pari was about to aboard a bus bearing registration No.TN 01 N 4597, the driver of the Transport Corporation took the bus in a rash and negligent manner, due to which the deceased fell down from the bus and sustained grievous injuries all over the body resulting in the death of the deceased. Thereafter, the claimants have filed a claim petition claiming compensation of Rs.10,00,000/-.

4. Before the Tribunal, the claimants examined two witnesses viz.,



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P.W.1 and P.W.2 and marked ten documents viz., Ex.P.1 to Ex.P.10. The Transport Corporation examined R.W.1 and no documents were marked on the side of the respondents. After adjudication, the Tribunal awarded a sum of Rs.4,53,200/- as compensation to the claimants. Not satisfied with the same, the claimants have filed C.M.A.No.2117 of 2019 seeking enhancement and aggrieved over the said compensation, the Transport Corporation has filed C.M.A.No.3003 of 2021.

5. The learned counsel appearing for the claimants submitted that at the time of accident the age of the deceased was 63 years, receiving a monthly pension of Rs.21,000/- per month from M.T.C.Ltd., however, without considering the same, the Tribunal has fixed a sum of Rs.6,000/- as notional income which is very meagre. That apart, the amount awarded under the head of loss of love and affection was also on the lower side and was not in consonance with the judgment of the Hon'ble Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay sethi and others reported in 2017 (16) Supreme Court Cases 680***. Further, the award under the other



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heads are also on the lower side. Accordingly, he prays for appropriate enhancement in favour of the claimants.

6. Per contra, the learned counsel appearing for the Transport Corporation submitted that, though it was reported in the FIR that the accident took place on 04.03.2013, however, the alleged bus has completed all its schedule trips in time without any hindrance and the claimants have given the complaint only on 09.03.2013 which is after a delay of four days from the date of alleged accident. However, without considering all the aforesaid facts, the Tribunal has fastened the liability as against the Driver of the Transport Corporation and the quantum of compensation fixed by the Tribunal is also highly excessive. Accordingly, he prays for allowing the appeal filed by the Transport Corporation.

7. Heard the learned counsel for the respective appellants and the respondents and perused the materials available on record.



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8. Admittedly, the accident happened on 04.03.2013. Though the accidents was denied by the Transport Corporation, however, on a perusal of Ex.P.10, the copy of the Motor Vehicle Inspector's report clearly reveals that the accident happened on 04.03.2013 near Porur Bus stand in the bus belonging to the Transport Corporation. More so, P.W.1, the son of the deceased and P.W.2, the eye witness have also clearly deposed that the vehicle belonging to the Transport Corporation driven by its driver in a rash and negligent manner has caused the accident, resulting in the death of the deceased. In order to disprove the same, the Transport Corporation has not examined any independent eye witness. Upon considering the oral and documentary evidence, the Tribunal fastened the negligence as against the driver of the Transport Corporation, which cannot be interfered with.

9. The another issue is with respect to quantum of compensation awarded by the Tribunal. Though it is claimed by the claimants that the accident had happened during the year 2013 and the Tribunal ought to have fixed the minimum notional income at Rs.8,000/- per month, however, without



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considering the same, the Tribunal has fixed the notional income at Rs.6,000/- per month. It has been the view of the courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Applying the ratio laid down by the Hon'ble Supreme Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in ***2014 (1) TANMAC 459*** and also considering the fact that the deceased was 63 years at the time of accident, this Court a notional income of Rs.8,000/- per month. However, the deceased is not entitled for future prospects, since he has already retired from service and had been getting a monthly pension of Rs.21,000/-. Deducting 1/3rd towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.5334/- per month and the deceased being aged about 63 years, as evidenced from the records, adopting the multiplier of 7 as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** reported in ***(2009) 6 SCC 121***, the loss of income to the family is arrived at Rs.5334/- * 12 * 7 = Rs.4,48,056/-, which is worked out as follows :-



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Loss of Income	Amount (in Rs.)
Notional income (Per month)	8,000
Less: Personal expenses (1/3 rd) (Rs.8,000/- x 1/3) (Per month)	2,666
	5,334
Notional income (per annum) (Rs.5,334/- x 12)	64,008
Multiplier	7
Total	4,48,056

10. A sum of Rs.20,000/- has been awarded under the head of "loss of consortium", which is meagre and applying the ratio laid down in *Pranay Sethi case*, the same is enhanced to a sum of Rs.40,000/- to the wife of the deceased. The Tribunal has awarded a sum of Rs.20,000/- under the head of "loss of love and affection". However, it is to be pointed out that compensation under the head "Loss of Love and Affection" is to be granted to the children of the deceased and, accordingly, a sum of Rs.40,000/- to each of the sons and daughter of the deceased, totalling to a sum of Rs.1,60,000/- (40,000/- * 4) would be just compensation as fixed in *Pranay Sethi case*. No amount has been awarded under the head loss of estate, hence, a sum of Rs.15,000/- under the said head. The Tribunal has granted a sum of Rs.10,000/- under the head of "funeral expenses", which is very meagre and the same is enhanced to a sum of



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Rs.15,000/-.

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

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Loss of dependency	4,03,200/-	4,48,056/- (enhanced)
Funeral expenses	10,000/-	15,000/- (enhanced)
Loss of love and affection	20,000/-	1,60,000/- (enhanced)
Loss consortium	20,000/-	40,000/-
Loss of estate	-	15,000/- (awarded)
Funeral expenses	-	15,000/- (awarded)
Total	4,53,200/-	6,93,056/-

12. The appeal in C.M.A.No.2117 of 2019 filed by the claimants is allowed in part and appeal in C.M.A.No.3003 of 2021 filed by the Transport Corporation is dismissed with the foregoing reasons. Accordingly, the impugned Award of the Tribunal is modified by enhancing the compensation



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amount from **Rs.4,53,200/-** to **Rs.6,93,056/-**. The Transport Corporation is directed to deposit the said enhanced amount to the credit of M.C.O.P.No.428 of 2013 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. The said award amount shall be apportioned amongst the appellants/claimants as per the Award of the Tribunal. On such deposit being made, the Tribunal is directed to transfer the amount apportioned to the share of the respective appellants/claimants by this Court above, directly to the bank account of the appellants through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in the present appeals.

13.11.2024

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No
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To
1. The Managing Director,
Metropolitan Transport Corporation Ltd.,



C.M.A.Nos.2117 of 2019 and 3003 of 2021

- (Chennai Division-I) Ltd
Anna Salai, Chennai – 2.
2. Motor Accidents Claims Tribunal
Additional District Judge – IV at Ponneri,
3. The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI,J.,

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