



Civil Miscellaneous Appeal No.80 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.80 of 2024

1.S.Vasanthi
W/o.Late K.Selvaraj

2.Minor S.Sindhu
D/o.Late S.K.Selvaraj

3.S.Kumaraswamy
S/o.Swaminathan

4.K.Meenakshi
W/o.S.Kumaraswamy

... Appellants

Vs.

The Tamil Nadu State Transport
Corporation Limited,
represented by its Managing Director,
No.27, Railway Station Road,
Periyamilaguparai,
Trichy - 620 001.

... Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 16.02.2016 made in M.C.O.P.No.562 of 2011 on the file of Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.



Civil Miscellaneous Appeal No.80 of 2024

For Appellants : Mr.A.Saravanan

For Respondent : Mr.M.Murali Vinodh

JUDGMENT

This appeal has been filed by the appellants/claimants seeking for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai, in M.C.O.P.No.562 of 2011, dated 16.02.2016.

2. The deceased in this case was a practising advocate before this Court. He was travelling along with his family members and relatives from Sabarimala to Chennai in a Maruthi 800 Car bearing registration No.TN-07-C-7429 on 26.12.2009. At about 11 p.m., when the car came near Uthamapalayam to Chinnamanur Main Raod, Theni, a bus belonging to the respondent transport corporation bearing registration No.TN-45-N-2569 came in a rash and negligent manner and dashed against the car, as a result, the deceased died on the spot. It was under these circumstances, the claim petition came to be filed by the claimants, who are the wife, daughter, father and mother of the deceased.



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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the entire accident had taken place only due to the rash and negligent driving of the bus belonging to the respondent transport corporation. Insofar as the fixation of compensation is concerned, the Tribunal fixed the compensation under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of Income/dependency	54,75,600/-
2.	Loss of consortium	50,000/-
3.	Loss of love and affection	50,000/-
4.	Funeral expenses	25,000/-
5.	Transport expenses	18,500/-
	Total	56,19,100/-

The Tribunal directed the compensation to be paid 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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5. Heard Mr.A.Saravanan, learned counsel for appellants and Mr.M.Murali Vinodh, learned counsel for respondent transport corporation.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. It is clear from the evidence that has been recorded before the Tribunal that the deceased was a successful lawyer practising before this Court. He happened to be a junior advocate of Mr.N.R.Chandran, Senior Advocate, Former Advocate General of Tamil Nadu and Former Additional Solicitor General of India. The Senior Advocate himself had gone into the box and deposed as PW-6. He has stated about the income earned by the deceased in his profession as an Advocate.

8. On carefully considering the award passed by the Tribunal, this Court is inclined to enhance the compensation under two heads. The first head is 'loss of income' and the second head is 'loss of love and affection'.



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9. Insofar as the loss of love and affection is concerned, the Tribunal has only granted a total sum of Rs.50,000/- for all the claimants. Considering the facts and circumstances of the case, this Court is inclined to enhance the compensation and fix it at Rs.40,000/- for each of the claimants and thereby, the total compensation under this head is enhanced from Rs.50,000/- to Rs.1,60,000/-.

10. Insofar as the loss of income is concerned, the Tribunal has fixed the future prospects at 30% of the monthly income. Considering the fact that the deceased was a successful advocate before this Court and he had a very bright future and he could have earned a lot of income by continuing his practice in the Court and also considering the judgments of the Apex Court in *Rajesh and others v. Rajbir Singh and others* [2013 (3) CTC 883], *Sanjay Verma v. Haryana Roadways* [2014 (1) CTC 745] and *Shashikala & others v. Gangalakshamma & another* [2015 (3) MLJ 373], this Court is inclined to increase the future prospects to 40% of the monthly income. The Tribunal had fixed the monthly income of the deceased at Rs.40,000/-. Accordingly, the loss of income/dependency is



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calculated as follows:

Monthly Income	:	Rs. 40,000/-
Add: Future Prospects	:	Rs. 16,000/-
40% of Rs.40,000/-		-----
		Rs. 56,000/-
Annual Income	:	Rs. 6,72,000/-
(56,000 * 12)		
Less : Income Tax (10%)	:	Rs. 67,200/-

		Rs. 6,04,800/-
Less : Personal expenses		
Rs.6,04,800/- * 1/4	:	Rs. 1,51,200/-

		Rs. 4,53,600/-
Multiplier	:	x 13

Loss of dependency	:	Rs.58,96,800/-

11. In the light of the above discussion, the compensation awarded by the Tribunal is enhanced/modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of Income/dependency	58,96,800/-
2.	Loss of love and affection	1,60,000/-
3.	Loss of consortium	50,000/-
4.	Funeral expenses	25,000/-
5.	Transport expenses	18,500/-



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<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
	Total	61,50,300/-

12. The compensation awarded by the tribunal at Rs.56,19,100/- is enhanced to Rs.61,50,300/-. The respondent transport corporation is directed to deposit the enhanced compensation, 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 eight weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The enhanced amount of Rs.5,31,200/- along with interest shall be permitted to be withdrawn by the first appellant.

This Civil Miscellaneous Appeal is disposed of in the above terms.

No costs.

03.04.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,



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Chief Small Causes Court,
Chennai.

N.ANAND VENKATESH, J.

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