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CMA.No.1725 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1725 of 2023

1. Thilaka

2. Minor. S.Gowthaman
(Minor is represented by his mother
and natural guardian first appellant)

... Appellants

vs.

1. The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Salai, Pallavan House, Chennai - 2.

2.Sankaran

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 27.01.2016 in M.C.O.P. 4212 of 2009 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For R1 : Mr.M.Murali Vinodh



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JUDGMENT

The appellants are the claimants in M.C.O.P. 4212 of 2009 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.6,00,000/- for the death of one Gopinath (son of claimant 1 and brother of claimant 2) in a road accident that took place on 23.02.2009.

2. The brief case of the appellants / claimants is as follows :

On 23.02.2009, Gopinath (since deceased) was travelling as a passenger in a bus bearing Registration Number TN-01-N-3714 belonging to the Metropolitan Transport Corporation Limited. The driver of the bus drove the bus in a rash and negligent manner, as a result of which, Gopinath was thrown out of the bus and sustained injuries. He was immediately rushed to hospital. However, he died on the way to hospital.

3. According to the claimants, the rash and negligent driving of the driver of the bus was the cause of accident and therefore, the



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Transport Corporation is liable to pay compensation to them.

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4. The first respondent, the Metropolitan Transport Corporation Limited, Chennai, contested the claim petition by filing its counter.

5. The Tribunal, vide its orders dated 27.01.2016, fastened negligence on the part of the driver of the bus and awarded compensation of Rs.5,66,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mr.K.Varadha Kamaraj, learned counsel appearing for the appellants and Mr.M.Murali Vinodh, learned counsel appearing for the first respondent.



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8. Mr.K.Varadha Kamaraj, learned counsel appearing for the appellants would contend that the deceased was working as a daily wager earning a sum of Rs.7,000/- per month. However, the Tribunal fixed the notional monthly income of the deceased only as Rs.3,000/-, which, according to him, is very meagre. He therefore, prayed for enhancement of the notional income of the deceased.

9. Per contra Mr.M.Murali Vinodh, learned counsel appearing for the first respondent contended that the Award passed by the Tribunal is based on the well laid down principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

10. In the claim petition, it is contended that the deceased was working as a daily wager earning a sum of Rs.7,000/- per month. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.3,000/-. The accident took place in the year 2009 and the deceased was aged 18 years on the date of accident.



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In the circumstances, this Court is of the opinion that fixing notional monthly income of the deceased as Rs.4,000/- would meet the ends of justice. As per the decision of the Supreme Court of India in ***National Insurance Co. vs Pranay sethi and others*** reported in **2017 (2) TNMAC 601**, 40% is added towards future prospects of the deceased. The deceased died as a bachelor and hence, 50% is deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 18 as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another*** reported in **(2009) 6 SCC 121**.

Calculation

Notional Income = Rs.4,000/-

40% Future Prospects = Rs.5,600/-

After 1/2 deduction = Rs.2,800/-

Loss of dependency

= Rs.2,800/- x 12 x 18

= Rs.6,04,800/-

In addition to that the claimants are entitled to Rs.80,000/- (40,000 x 2), Rs.15,000/- and Rs.15,000/- for 'loss of consortium', 'loss of estate' and 'funeral expenses' respectively as per the decision in ***National Insurance***



Co. vs Pranay sethi and others (cited supra). Thus, the claimants are entitled to a total compensation of Rs.7,14,800/- (6,04,800 + 80,000 + 15,000 + 15,000= 7,14,800) as shown in the following tabular column.

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.6,04,800/-
2.	Loss of consortium (Rs.40,000/- x 2)	Rs.80,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.7,14,800/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.7,14,800/- that would carry interest at the rate of 7.5% per annum.

12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.7,14,800/-.
- iii. The appellant is directed to pay the Court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree



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only after receipt of the Court fee.

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- iv. The first respondent, Metropolitan Transport Corporation Limited, Chennai, is directed to deposit the enhanced compensation amount i.e., Rs.7,14,800/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P. 4212 of 2009 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai.
- v. On such deposit being made, the appellant is at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.
- vi. The appellant is not entitled to claim interest for the period of delay of 209 days in filing this appeal.

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



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To

1.The Motor Accidents Claims Tribunal,
Small Causes Court, Chennai.

2. The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Salai, Pallavan House, Chennai - 2.

3.The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

mtl

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