



C.M.A(MD)No.379 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.379 of 2021

R.Sathiyamoorthy

... Appellant

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Pudukkottai, Pudukkottai District.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree passed in M.C.O.P.No.188 of 2019 dated 03.08.2020, on the file of the Motor Accident Claims Tribunal (IV Additional District Judge), Madurai.

For Appellant : Mr.J.Sankarapandian
For Respondent : Mr.P.M.Vishnuvarthanan

JUDGMENT

The claimant has preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The contention of the claimant is that the deceased was working as Counseling Assistant and she was earning Rs.30,000/- for which



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the claimant has produced the bona fide certificate issued by the clinic namely Ameer Speciality Clinic. Even though it is a private employment, the salary may be ascertained by perusing the Income Tax Returns of the deceased, which is marked as Ex P6.

3. It is seen the gross total income shown in the Income Tax Return as Rs. 4,01,541/-. Therefore, this Court is of the considered opinion that the Tribunal ought to have taken the salary as Rs.30,000/- and not as Rs.10,000/-. Hence, this Court is fixing the monthly salary as Rs.30,000/-, with 10% future prospects. Thereafter, half of the income shall be deducted for personal expenses of the deceased. Further the Tribunal has failed to grant loss of consortium. Therefore, this Court is fixing the loss of consortium as Rs.40,000/-.

4. The learned Counsel for the Transport Corporation submitted that the deceased was travelling in a “four wheeler” but the deceased hit the bus on the right side front wheel. Therefore, contributory negligence ought to be fixed on the deceased. However, it is seen that the Transport Corporation has not preferred any appeal. Therefore, in order to give fair and just compensation and also contributory negligence on the part of the deceased, this Court is deducting Rs.



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52,000/- from the total compensation. The compensation granted by the Tribunal under the other heads are confirmed.

5.The modified award amount is as under:

i.	Monthly income of the deceased	Rs.30,000/-
ii.	Future prospects (10%)	Rs.3,000/-
Total		Rs.33,000/-
50% of income deducted towards personal expenses		50% of Rs.33,000/- =Rs.16,500/-

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Income (Rs.16,500/-*12*9)	Rs.17,82,000/- (enhanced)	Rs.5,94,000/-
2.	Loss of Consortium	Rs.40,000/-	Nil
3.	Loss of Estate	Rs.15,000/- (confirmed)	Rs.15,000/-
4.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
Total		Rs.18,52,000/-	Total compensation granted by the Tribunal = Rs. 6,24,000/-
Deducting contributory negligence		- Rs.52,000/-	
Total compensation granted by this Court		Rs.18,00,000/- (enhanced)	



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6.The respondent Transport Corporation is directed to deposit Rs. 18,00,000/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal. Since this Court is enhancing the compensation, the claimant is liable to pay the balance Court fee.

7. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

06.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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- 1.Motor Accident Claims Tribunal
(IV Additional District Judge), Madurai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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