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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 398 of 2022

and

C.M.P(MD)No.3518 of 2022

M/s.The Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Kumbakonam,
represented by Managing Director,
No.27, Railway Station Road,
Kumbakonam, Periyamilaguparai,
Trichy.

... Appellant

Vs.

1. Jayapratha
2. Minor Deivadharshana
3. Minor Vasudharani
4. Kalyani [Died]
5. Raju [Died]

... Respondents

*[The Claimants 2 & 3 are represented by next friend, natural guardian and mother
1st claimant].*



PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the award passed in M.C.O.P.No.723 of 2018 dated 07.07.2020 on the file of the Motor Accident Claims Tribunal (District Court), Karur.

For Appellant : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.K.Sudalayandi, for R-1

JUDGEMENT

This appeal is filed against the award passed in M.C.O.P.No.723 of 2018 dated 07.07.2020 on the file of the Motor Accident Claims Tribunal (District Court), Karur.

2. It is a case of fatal. The claimants are wife and two children, mother and father of the deceased.

3. The Transport Corporation has raised only a single plea. The Tribunal has granted Loss of consortium to wife to the tune of Rs.40,000/- and also granted Rs. 2 Lakhs under the head of Loss of Love and Affection for all the five dependents. The contention of the Transport Corporation is that either the wife of the deceased is entitled to consortium or love and affection, but the Tribunal has granted compensation under both the heads, which is erroneous.



4. The Learned Counsel appearing for the claimants submitted that pending this appeal the father and mother of the deceased died. Therefore, that portion cannot be deducted and prayed to grant entire amount under the head of love and affection.

5. After hearing rival submissions, this Court is not inclined to interfere with the compensation granted under loss of consortium to wife to the tune of Rs.40,000/-.

6. However is inclined to interfere with the compensation granted under loss of love and affection. The Tribunal has granted a sum of Rs.2,00,000/- to all the five claimants under the head of loss of love and affection which is erroneous. There are two children and parents of the deceased and all the four are entitled to compensation under loss of love and affection. Therefore, for two minor children Rs.40,000/- each and Rs.40,000/- each for parents and totally Rs.1,60,000/- under the head of loss of love and affection. Only this portion of the award is modified and the rest of the award granted by the Tribunal is confirmed.



7. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For Loss of future income	Rs.16,85,208/-	Rs.16,85,208/-	confirmed
2.	For Loss of Consortium	Rs. 40,000/-	Rs. 40,000/-	confirmed
3.	For Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	confirmed
4.	For Funeral expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
5.	For Transport expenses	Rs. 10,000/-	Rs. 10,000/-	confirmed
6.	For loss of Love and Affection	Rs. 2,00,000/-	Rs. 1,60,000/-	reduced
Total		Rs.19,65,208/-	Rs.19,25,208/-	

From the compensation of **Rs.19,65,208/-** granted by the Tribunal, this Court reduced and granted a sum of **Rs.19,25,208/-**, as compensation.

8. Therefore, the claimants are entitled to a sum of **Rs.19,25,208/-** as compensation with interest at 7.5% p.a., from the date of claim petition till the date of realization along with costs. The 1st claimant is entitled to a sum of Rs. 9,25,208/- and the minor claimants 2 & 3 are entitled to a sum of Rs.5,00,000/- each, as compensation. The Transport Corporation is directed to deposit the entire compensation amount, within a period of 12 weeks from the date of receipt of a



copy of the Order, if not deposited. After depositing the amount, the 1st claimant is permitted to withdraw her share, as per Law. The share of the minor claimants 2 & 3 is to be deposited in anyone of the Nationalised Bank till they attains majority. The 1st claimant/mother is permitted to withdraw the interest amount of the deposited amount of the minor claimants 2 & 3 one in three months. No Costs. Consequently, connected miscellaneous petition is closed.

9. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No Costs. Consequently, connected miscellaneous petition is closed.

01.02.2024

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

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To

1. The Motor Accident Claims Tribunal
(District Court),
Karur.

2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.398 of 2022**

01.02.2024