



C.M.A(MD)No.458 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.458 of 2022

The General Manager,
Tamil Nadu State Transport Corporation,
Periyamilagparai, Trichy – 1.

... Appellant

Vs.

1.Kavitha
2.Aravind
3.Janani
4.Ramaraj

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order, dated 27.02.2020, made in M.C.O.P.No.420 of 2016, on the file of the Motor Accident Claims Tribunal (Special District Judge), Tiruchirapalli.

For Appellant : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.Jerin Mathew

JUDGMENT

The Transport Corporation has preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The contention of the Transport Corporation is that the legal heirs of the deceased are his wife, two children and father. However, the



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Tribunal has granted loss of consortium to wife to the tune of Rs.40,000/-, parental consortium to two children to the tune of Rs.80,000/- (Rs.40,000/- each) and filial consortium to father to the tune of Rs.40,000/-. The Tribunal has also granted love and affection to the tune of Rs.50,000/- which is incorrect. Therefore, this Court is declining the compensation granted under the head of loss of love and affection.

3. The next contention of the Transport Corporation is that for pain and suffering, the Tribunal has granted Rs.40,000/- but the same cannot be granted in a case of death. Therefore, the same is deleted. Since it is a case of fatal, attender charges shall not be granted. Therefore, this Court is deleting the attender charges also. For loss of estate, the Tribunal has granted Rs.15,000/- and the same is reduced to Rs.10,000/- by this Court.

4. The next contention of the Transport Corporation is that pending M.C.O.P., one of the legal heirs namely, Janani died. Therefore, the Transport Corporation pleaded to reduce the parental consortium granted to Late.Janani which is to the tune of Rs.40,000/-. The said contention cannot be accepted, since the position as on the date of death of the deceased ought to be taken for granting



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the compensation. This Court has already dealt with this issue in several cases and had held that the situation and the position of the family as on date of the death ought to be taken into account. Therefore, this Court is not inclined to reduce the parental consortium.

5.The modified compensation awarded by this Court is as under:

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Loss of Dependency	Rs.19,53,900/-	Rs.19,53,900/-	Confirmed
2.	Consortium to the 1 st claimant, the wife of the deceased	Rs.40,000/-	Rs.40,000/-	Confirmed
3.	Parental Consortium to the claimants 2 and 3, the children of the deceased Rs. 40,000/- each (40,000 * 2)	Rs.80,000/-	Rs.80,000/-	Confirmed
4.	Filial Consortium to the 4 th claimant the father of the deceased	Rs.40,000/-	Rs.40,000/-	Confirmed
5.	Love and Affection	Rs.50,000/-	Nil	Reduced
6.	Pain and Suffering	Rs.40,000/-	Nil	Reduced
7.	Medical Expenses	Rs.2,51,980/-	Rs.2,51,980/-	Confirmed
8.	Transport Expenses	Rs.6,000/-	Rs.6,000/-	Confirmed
9.	Attender Charge	Rs.5,000/-	Nil	Reduced
10.	Loss of Estate	Rs.15,000/-	Rs.10,000/-	Reduced
11.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	Total	Rs.24,96,880/-	Rs.23,96,880/-	Reduced

The total compensation granted by the Tribunal to the tune of Rs.24,96,880/- is reduced to Rs.23,96,880/- by this Court.



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6.The appellant Transport Corporation is directed to deposit Rs.23,96,880/- (Rupees Twenty Three Lakh Ninety Six Thousand Eight Hundred and Eighty only) 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their shares (the claimants 1 to 4 are entitled to Rs.7,65,000/-, Rs.6,68,440/-, Rs.6,68,440/- and Rs. 2,95,000/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. Since it is submitted that the 3rd claimant died, if it is so, the share of the 3rd claimant shall be equally divided among the claimants 1, 2 and 4.

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

19.03.2024

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

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To

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- 1.Motor Accident Claims Tribunal /
Special District Judge, Tiruchirapalli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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