



C.M.A.(MD)No.1276 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.10.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.1276 of 2024

1.Bhuvaneshwari
2.Minor Sidhish
3.Kasikani
4.Chinnammalkani
5.Paramasakthi
6.Bhavathi
7.Saraswathy

...Appellants / Petitioners

Vs.

Tamil Nadu State Transport Corporation Limited,
Through its Managing Director,
No.2, Trivandrum Road,
Vannarapettai,
Tirunelveli.

... Respondent /Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal, enhance the award amount in M.C.O.P.No.22 of 2016 on the file of the Motor Accident Claims Tribunal, (Principal Sub Judge), Tirunelveli, dated 14.08.2019.

For Appellants : Mr.T.Selvakumaran

For Respondent : Mr.S.Micheal Heldon Kumar



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JUDGMENT

The instant appeal has been preferred by the claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (Principal Sub Judge), Tirunelveli.

2. Since the finding on negligence and liability are not under challenge, the facts leading to the filing of the claim petition may not be necessary for deciding the issue involved in this appeal.

3. The learned counsel appearing for the appellants /claimants submitted that the appellants are aggrieved only with regard to fixation of notional income by the tribunal and would submit that the tribunal ought to have fixed the notional income at Rs.15,000/-, since the deceased was working as a Borewell Operator and Driver and also that the accident took place in the year 2016.

4. The learned counsel appearing for the respondent submitted that the avocation of the deceased was not proved and the proof for the income and the driving licence of the deceased were also not produced



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before the tribunal; that the award of compensation under the head of love and affection, and a sum of Rs.50,000/- awarded under the head of consortium, is erroneous; and that there is no infirmity in the award and prayed for confirmation of the award.

5. The only point for consideration in the instant appeal is *‘whether the compensation awarded by the Tribunal is just and reasonable?’*

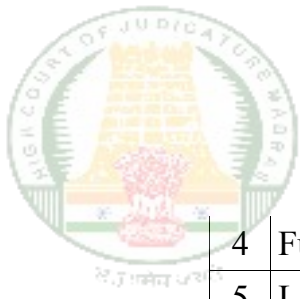
6. The accident took place in the year 2016. Though the claimants had deposed that the deceased was working as Borewell Operator and Driver, no documentary evidence was produced, to prove avocation or income of the deceased. However, considering the year of the accident and also the deposition of PW1, this Court is of the considered view that it would be just and reasonable to fix the notional income at Rs.12,500/-. The deceased was aged about 32 years, and hence, 40% of the income has to be added towards future prospects. The multiplier applicable is 17. In view of the number dependents, 1/3rd of his income has to be deducted towards personal expenses.



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7. Thus, the compensation under the head of loss of income has to be as (Rs. 12,500+Rs. 5,000)*16*12*2/3=22,40,000/-. The compensation under the head of love and affection to the appellants 2 and 3, ie., the child and the mother of the deceased, and the compensation under the head of loss of consortium to the first appellant, ie., the wife of the deceased, is modified to Rs. 40,000/- each. The compensation under the head of loss of estate is granted at Rs. 15,000/-. The compensation towards funeral expenses is reduced to Rs. 15,000/-. The tribunal has not awarded any compensation towards travel expenses, and hence, the compensation under the head of transport expenses is granted at Rs. 10,000/-. The claim petition filed by the appellants 4 to 6 has already been dismissed by the Tribunal. Thus, the compensation awarded by the Tribunal is enhanced as follows:

<i>Sl. No</i>	<i>Description</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>	<i>Award confirmed, enhanced or granted</i>
1	Loss of income	8,32,000	22,40,000	Enhanced
2	Loss of love and affection	75,000	80,000 (to the child and mother of the deceased)	Enhanced
3	Loss of consortium	50,000	40,000 (to the wife of the deceased)	Reduced

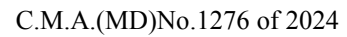


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4	Funeral expenses	25,000	15,000	Reduced
5	Loss of estate	---	15,000	Granted
6	Transportation	---	10,000	Granted
Total		9,82,000	24,00,000	Enhanced by Rs.14,18,000/-

8. The respondent/insurance Company is directed to deposit the enhanced compensation of Rs. 24,00,000/- (Rupees twenty-four lakhs only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization and costs, less the amount already deposited, if any, within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. On such deposit, the appellants 1 and 3 /claimants 1 and 3 shall be entitled to withdraw the said compensation as per their respective shares apportioned by the Tribunal, together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal. The appellants 1 to 3 /claimants 1 to 3 are directed to pay the necessary Court Fee, if any, on the enhanced amount.



11. In the result, this Civil Miscellaneous Appeal is partly allowed.

24.10.2024

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TO:-

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- 1.The Motor Accident Claims Tribunal, (Principal Sub Judge),
Tirunelveli.
- 2.Tamil Nadu State Transport Corporation Limited,
Through its Managing Director,
No.2, Trivandrum Road,
Vannarapettai,
Tirunelveli.
- 3.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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Judgment made in
C.M.A(MD)No.1276 of 2024

Dated: 24.10.2024