



C.M.A(MD)No.1092 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1092 of 2023

1.Magudeeswari

2.Minor.Hamsalekha

3.Minor.Kavinessh

... Appellants

*(Minor appellants 2 and 3 are represented
by their Natural Guardian / Mother
1st appellant)*

Vs.

Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Award passed in MCOP No.412 of 2019, dated 26.11.2020, on the file of the Motor Accident Claims Tribunal / Principal District Court, Dindigul.

For Appellants : Mr.M.Karunanithi

For Respondent : Mr.A.V.B.Krishnakanth



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JUDGMENT

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The claimants have preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The contention of the claimant is that the deceased was employed as PWD staff under contract basis and was drawing Rs.20,000/- per months as salary but the claimants have not produced any evidence before the Tribunal. However, the claimants have produced a certificate dated 21.06.2021 before this Court issued by the PWD Deputy Divisional Engineer (Construction and Maintenance), Athur, indicating that the deceased was drawing Rs.18,220/- per month as salary.

3. The learned Counsel for the respondent vehemently opposed to accepting the said certificate, since the veracity of the certificate ought to be ascertained and the person who had issued the certificate should prove the same by deposing before the Court and the respondent is entitled to cross examine to ascertain the veracity as well and these opportunities to the respondent are being denied if the same is accepted before this Court.

4. This Court is not inclined to accept the plea of the respondent for



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remitting the case back to the Tribunal for ascertaining the certificate. The PWD staff attached to the High Court are drawing Rs.20,000/- as on date. The said certificate is dated 21.06.2021 and the amount indicated in the certificate for the year 2021 is acceptable. Therefore, this Court is inclined to accept the certificate indicating the salary as Rs.18,220/-. Hence, the monthly salary of the deceased is fixed by this Court as Rs.18,220/-.

5. The claimants are the wife and two minor children of the deceased and each claimant is entitled to loss of consortium, but the Tribunal has granted Rs. 40,000/- in total for loss of consortium. This Court is granting Rs.40,000/- to each claimant for loss of consortium which comes to Rs.1,20,000/- under the head of loss of consortium. The compensation granted by the Tribunal under the other heads are confirmed.

6.The enhanced award amount granted by this Court is as under:

i.	Monthly income of the deceased	Rs.18,220/-
ii.	Future prospects (25%)	Rs.4,555/-
Total		Rs.22,775/-
1/3 rd of income deducted towards personal expenses		- Rs.7,591/-
After deduction		Rs.15,184/-



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Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Dependency (Rs.15,184/-*12*14)	Rs.25,50,912/- (enhanced)	Rs.7,00,000/-
2.	Loss of Estate	Rs.15,000/- (confirmed)	Rs.15,000 /-
3.	Loss of Consortium (Rs.40,000/- * 3)	Rs.1,20,000/- (enhanced)	Rs.40,000/-
4.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
5.	Transport Expenses	Rs.10,000/- (confirmed)	Rs.10,000/-
Total compensation granted by this Court		Rs.27,10,912/- (enhanced)	Total = Rs.7,80,000/-

7.The respondent is directed to deposit Rs.27,10,912/- 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 claimants are permitted to withdraw their shares (the 1st claimant is entitled to Rs. 13,55,456/- and the minor claimants 2 and 3 are entitled to Rs.6,77,728/- each) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until the children attains majority. The first appellant herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three



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months. Once the minor claimants attain majority, they are permitted to withdraw their shares with accrued interests. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee.

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

06.03.2024

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

1.Motor Accident Claims Tribunal /
Principal District Court, Dindigul.

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



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S.SRIMATHY, J.

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