



C.M.A.(MD).No.387 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

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1.Baby Rani
2.Balasubramanian
3.Minor Kayalvizhi ... Appellants/Petitioners

(Minor 3rd Petitioner represented her mother and Guardian 1st Petitioner)

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Nandavanapatti,
Bye Pass Road,
Dindigul Town. ... Respondent/Resondent.

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to modify the decree and award dated 21.12.2018 made in M.A.C.O.P.No.171 of 2015 passed by the learned Additional District Judge (Motor Accidents Claim Tribunal), Dindigul and enhance the award amount.

For Appellants : Mr.T.Vadivelan

For Respondents : Mr.K.Sudalaiyandi



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JUDGMENT

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This appeal has been filed to modify the decree and award dated 21.12.2018 made in M.A.C.O.P.No.171 of 2015 passed by the learned Additional District Judge (Motor Accidents Claim Tribunal), Dindigul and enhance the award amount.

2.The facts in brief:

On 26.12.2014 at about 11.15 a.m., the deceased was walking from South to North to Palani Pathayatra taking lefterside of the Mud part of the road. At that time, the vehicle bearing registration No.TN 57 A 1669 was driven by its driver in rash and negligent manner from south to north direction and hit the deceased behind. As a result of which the deceased fell down sustained head injuries and died on the way to hospital. A case was registered in Crime No.233 of 2014 under Sections 279, 337 & 304(A) of IPC on the file of Kannivadi Police Station. The claimants filed the claim petition claiming compensation amount of Rs.20,00,000/-.

3.That was resisted by the corporation by filing counter stating that



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the occurrence took place because of rash and negligent act on the part of the deceased. Along with others, he walking in the centre of the road without minding the traffic. On seeing the persons walking on the centre of the road, the driver of the offending vehicle tried to stop the vehicle on the left side. In spite of that the occurrence took place. So the respondent driver took all possible steps to avoid the occurrence. But due to the rash and negligent act on the part of the deceased only, it occurred.

4.Regarding the first aspect of negligence the tribunal recorded a finding that very nature of the accident indicates the rash and negligent driving on the part of the respondent driver.

5.No appeal was preferred by the respondent against the part of the finding, which is final. No further discussion is required, since very nature of the occurrence itself shows the rash and negligence on the part of the respondent driver.

6.Regarding the compensation, notional income was taken as Rs.6,000/-. The Tribunal assessed the age as 18 on the basis of the entry



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made in the postmortem certificate. Half of the amount was deducted towards the living and personal expenses. 18 multiplier was adopted and finally arrived at the following assessment of compensation as indicated in the tabulation form.

1. Loss of Income	- Rs.6,48,000/-
2. Loss of Love and affection to the petitioners-	Rs. 60,000/-
3. Funeral Expenses	- <u>Rs. 50,000/-</u>
Total	- <u>Rs.7,28,000/-</u>

7. Aggrieved over the quantum, the appellant filed this appeal. The counsel for the appellant would submit that the deceased was 18 years old at the time of occurrence. While the deceased was studying polytechnic first year in Polytechnic Technical College. Normally for college student undergoing Engineering Graduation or polytechnic, notional income is fixed between Rs.15,000 – Rs.20,000. But, the income fixed by the tribunal is absolutely without any basis and so it ought to be interfered.

8. Regarding the multiplier, considering the age of the deceased,



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the 18 was taken as per settled procedure. The notional income may not be proper. As mentioned by the respondent counsel the Engineering Graduate's notional income is Rs.15,000 – Rs.20,000. There is no proper evidence on record. But, herein the deceased was undergoing first year course. So taking Rs.15,000/- as notional income may be proper. On that ground Rs.15,000/- is taken as notional income, considering the age, the multiplier is 18. To that 40% of the future prospects must be added Rs. 15,000 + Rs.6,000 = Rs.21,000/-. From that $\frac{1}{2}$ has to be deducted. (Rs. 21,000 – Rs.10,500 = Rs.10,500/-. Multiplier 18 was adopted. (Rs. 10,500 x 18 x 12 = Rs.22,68,500/-) So the loss of dependency is fixed at as Rs.22,68,500/-. Loss of estate is fixed as Rs.15,000/-. Funeral expenses is fixed as Rs.15,000/-. Medical Expenses is fixed as Rs.15,000/-. The claimants 1 and 2 are entitled Rs.40,000/- each towards the loss of consortium. The third petitioner is not entitled for any consortium, since she is only his younger sister. The total compensation award is fixed as follows:



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Sl. No.	Nature of Head	Award (Rs.)
1.	<i>Loss of Dependency</i>	22,68,000/-
2.	<i>Loss of Estate</i>	15,000/-
3.	<i>Filial Consortium for petitioners 1 and 2</i>	80,000/-
4.	<i>Medical Expenses</i>	15,000/-
5.	<i>Funeral Charges</i>	15,000/-
	Total	23,93,000/-

9. Accordingly, this civil miscellaneous appeal is partly allowed.

(i) The quantum of compensation awarded by the Tribunal is reduced to Rs.23,93,000/- (Twenty Three Lakhs and Ninety Three Thousand only), which shall carry interest at the rate of 7.5% per annum.

(ii) The appellant/ insurance company is directed to deposit the entire compensation of Rs.23,93,000/- (Twenty Three Lakhs and Ninety Three Thousand only)/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and proportionate costs before the trial Court, within a period of two months from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant / insurance company, the claimants 1 and 2 are permitted to withdraw their



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respective shares, after following the due process of law, less any amount already received by them.

(iv) No costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No
Internet : Yes / No
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To

1.The Additional District Judge (Motor Accidents Claim Tribunal),
Dindigul.

2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA,J.

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