



REV.APLC. (MD)No.73 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

REV.APLC.(MD) No. 73 of 2024
and
C.M.P.(MD)No.9273 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam, Kumbakonam Kottam,
Thanjavur District.

...Petitioner

Vs.

1.Selvi
2.Malathi
3.Gunasekar
4.Minor.Latha

...Respondents

[R4 minor is represented by her mother R1]

PRAYER: These review petitions are filed under Order 47 Rule 1 r/w Section 114 of Civil Procedure Code, to review the judgment and decree dated 06.04.2023 in C.M.A.(MD)No.650 of 2022 on the file of this Court.

For Petitioner : Mr.P.M.Vishuvarthanan
For Respondents : Mr.P.Venkatasubramanian

ORDER

This review application has been filed to review the order of this Court dated 06.04.2023 in C.M.A.(MD)No.650 of 2022 on the ground that the multiplier method was wrongly adopted by this Court.



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2.The learned counsel for the review petitioner submitted that the deceased was aged about 54 at the time of accident. Therefore, the multiplier '11' has to be adopted. Instead, multiplier '17' has been inadvertently adopted by this Court while awarding compensation.

3.Admittedly, the age of the deceased was 54 years at the time of accident. Hence, the correct multiplier is '11'. However, in the judgment of this Court dated 06.04.2023, it has been wrongly mentioned as '17'.

4.In view of the above, paragraph Nos.10 and 11 of the order dated 06.04.2023 made in C.M.A.(MD)No.650 of 2022, are modified as follows:

“10.The deceased is 54 years at the time of accident and it is stated by P.W.1 and P.W.2 that the deceased is a Painter by profession, earning a sum of Rs.40,000/-p.m., and no document was filed to prove the nature of income derived by the deceased and the Tribunal also recorded the fact that no exact details available in the bank accounts to the nature of the income derived by the deceased. However, the Tribunal on the premise that the deceased being a Painter by profession, he would easily earn Rs.750/- per day and fixed the monthly income at Rs.15,000/-



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p.m. It is relevant to note that the deceased is a Painter by profession and it cannot be certain that for all 30 days, he can get such job continuously, though it is a skilled work getting income in all days is not certain. Therefore, the Tribunal fixing the monthly income on mere guess work, cannot be proper. At the most, the Tribunal ought to have fixed the income at Rs.13,000/-p.m., taking note of the minimum wages at the relevant point of time. This Court by fixing the notional income at Rs.13,000/- and by adding 10% towards future prospects and by deducting one fourth towards the personal expenses of the deceased and by adopting '11' as multiplier, the loss of dependency comes to Rs.14,15,700/-. The Tribunal has awarded only a sum of Rs.20,000/- each to the Petitioners 2 to 4 towards loss of love and affection and the same is enhanced to Rs.40,000/- each totalling to Rs.1,20,000/-.The loss of consortium awarded at Rs.40,000/- is sustained. This Court further awards a sum of Rs.15,000/- towards loss of estate and Rs.5,000/- towards transport expenses and another sum of Rs.15,000/- towards funeral expenses and the award under these heads totalling to Rs.1,95,000/- and thus the Petitioners/claimants are entitled to a total sum of Rs.16,10,700/- (Rs.14,15,700/- + Rs.1,95,000/-=Rs.16,10,700/-) with interest at the rate of 7.5% p.a and the same is given below:



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S.No	Name of the heads	Awarded by the Tribunal	Awarded by this Court	Remarks
1	For loss of dependency	Rs.16,33,500/-	Rs.14,15,700/-	Modified
2	For funeral expenses	Rs.15,000/-	Rs.15,000/-	same
3	For loss of love and affection to the Petitioners 2 to 4	Rs.60,000/- (Rs.20,000/- x3)	Rs.1,20,000/-	enhanced
4.	For loss of consortium to the first petitioner/wife	Rs.40,000/-	Rs.40,000/-	same
5	For loss of estate	Rs.20,000/-	Rs.15,000/-	Modified
6	For transportation	Rs.5,000/-	Rs.5,000/-	Same
7	Total	Rs.17,73,500/-	Rs.16,10,700/-	Modified

11.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation is modified from Rs.17,73,500/- to **Rs.16,10,700/-** with interest at the rate of 7.5% p.a., from the date of claim petition till the date of realization. The appellant/Transport Corporation is directed to deposit the enhanced award amount with accrued interest and costs, less the award amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. The ratio of apportionment made by the Tribunal is confirmed and the claimants/respondents 1 to 3 herein are permitted to withdraw their respective share in the award amount with proportionate accrued



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interest and costs, less the award amount already withdrawn, if any, by filing proper application before the Tribunal. The fourth respondent, minor, who is aged 16 years at the time of filing claim petition ie., in the year 2019, would have now attained majority and she is also permitted to withdraw her share in the award amount with accrued interest and costs, by filing proper applications before the Tribunal. The claimants are directed to pay the excess court fee towards the enhanced award amount to the credit of the Registry of this Court. Registry is directed to draft the decree only after such Court fee being paid by the claimants. Consequently, connected Miscellaneous Petitions are closed. No costs.”

5. With the above direction, this review petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
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To
The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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