



C.M.A.(MD) No.608 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

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1.Saravanasedu Ramachandran,

2.Minor.Muthuram,

3.Minor.Maheswari.

... Appellants

[Minor appellants represented by their father/next guardian/first appellant herein]

Vs.

Tamil Nadu State Transport Corporation Limited,
Through its Managing Director.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 26.09.2022 passed in M.C.O.P.No.126 of 2022 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Tirunelveli.

For Appellants : Mr.T.Selvakumaran

For Respondent : Mr.S.Micheal Heldon Kumar

J U D G M E N T

The instant appeal seeks enhancement of compensation awarded to the appellants herein by the judgment and decree dated 26.09.2022 passed



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in M.C.O.P.No.126 of 2022 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Tirunelveli.

2. The appellants filed a claim petition stating that the deceased, while travelling in an Autorickshaw, a bus, belonging to the respondent/Transport Corporation, came in a rash and negligent manner and dashed against the autorickshaw, as a result of which, the deceased sustained fatal injuries.

3. The respondent/Transport Corporation filed a counter denying the averments made in the claim petition and also stating that in any case, the compensation claimed was excessive.

4. Before the Tribunal, the appellants examined the first appellant as P.W.1 and another witness, Ganeshraj as P.W.2 and marked Exs.P1 to P13. The respondent/Transport Corporation examined one Muthukumar/the Driver of the bus as R.W.1 and marked Ex.R1.

5. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the negligence of the bus driver and determined the compensation at



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Rs.13,20,000/-.

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6. The learned counsel for the appellants/claimants submitted that though the appellants produced Ex.P7-Milk Diary to show that the deceased was supplying milk to the Milk Society and had cow shed, the Tribunal had fixed a very meagre notional income of Rs.9,000/- per month and hence, prayed for enhancement.

7. The learned counsel for the respondent/Transport Corporation, per contra, submitted that the award of the Tribunal is just and reasonable, in the absence of any proof of income of the deceased filed by the claimants.

8. This Court has given its anxious consideration and perused the materials available on records.

9. The only question involved in the instant appeal is '*Whether the compensation awarded by the Tribunal is just and reasonable?*'

10. As regards the award of compensation under the conventional



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heads, this Court finds that the compensation under the head of funeral expenses and transport expenses is reasonable and hence, confirmed.

11. As regards the compensation under the head loss of income, it is seen that the appellants had produced Ex.P7 to show that the deceased had cow shed and was supplying milk to the milk society. However, there is no proof of the exact income earned by the deceased. Considering the avocation, the year of accident and the age of the deceased, this Court is of the view that it would be just and reasonable to fix the notional income at Rs.12,000/- p.m. for the deceased. The appellants are entitled to 25% of enhancement towards future prospects. Hence, the award of compensation under the head of loss of income has to be $\text{Rs.12,000/-} + \text{Rs.3000/-} \times 12 \times 14 \times \frac{2}{3}$ (1/3 has been deducted towards personal expenses) = 16,80,000/-.

12. As regards the compensation under the head of love and affection, it is seen that the Tribunal awarded at Rs.10,000/- each, which is contrary to the settled proposition of law. Hence, the appellants are entitled to Rs.44,000/- each, as per the judgment in the case of *The National Insurance Company Limited vs. Pranay Sethi* reported in 2017



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(16) SCC 680. Thus, the compensation under the head loss of love and affection has to be enhanced Rs.44,000/- x 3 = Rs.1,32,000/-. Hence, the award of compensation is modified as follows:

<i>Sl. No</i>	<i>Description</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed, enhanced or granted</i>
1	Loss of Income	Rs.12,60,000/-	Rs.16,80,000/-	Enhanced
2	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
3	Loss of Love and affection for appellants herein	Rs. 30,000/-	Rs. 1,32,000/-	Enhanced
4	Transport Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
Total		Rs.13,20,000/-	Rs.18,42,000/-	Enhanced by Rs.5,22,000/-

13. The respondent/Transport Corporation is directed to deposit enhanced compensation of Rs.18,42,000/- (Rupees Eighteen Lakhs Forty - Two Thousand only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) 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.



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14. On such deposit, the first appellant/claimant is entitled to withdraw his share amount together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal.

15. The Tribunal is directed to deposit the share amount of the minor claimants/respondents 2 and 3 herein in any one of the Nationalized Bank in an interest bearing Fixed Deposit, initially for a period of three years, renewable thereafter, till the minors attain majority. The guardian of the minors/first respondent herein, who is their father, is permitted to withdraw interest from the said deposit, once in three months and utilise the same for the welfare of the minors claimants/respondents 2 and 3 herein. The appellants/claimants are directed to pay the necessary Court Fee, if any, on the enhanced amount.

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

No costs.

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Index: Yes/ No

NCC: Yes / No

Speaking Order / Non-Speaking Order

apd



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To:

1. Motor Accidents Claims Tribunal,
(Principal District Judge), Tirunelveli

2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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