



C.M.A.(MD) No.826 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.826 of 2024

1.N.Kalaiyavani
W/o.Late.Narayanan

2.Minor Srinivasan
S/o.Late.Narayanan

3.Minor Jeyasri
D/o.Late Narayanan

[Minor second and third appellants are
rep. by their natural guardian mother
N.Kalaiyavani, the first appellant]

... Appellants

Vs.

1.Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Division - II Ltd.,
Periyamilagupparai,
Trichy - 1.

2.Rajalakshmi
W/o.Mahalingam

3.Kalyani
D/o.Mahalingam

... Respondents



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Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount awarded by the Motor Accident Claims Tribunal (Special District, Court), Trichy, *vide* its Judgment and Decree dated 08.09.2022 made in M.C.O.P.No.615 of 2020.

For Appellants : Mr.A.Sivasubramanian

For R1 : Mr.K.Ramaiah

J U D G M E N T

The instant appeal has been filed by the claimants 1 to 3, seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (Special District, Court), Trichy, *vide* its Judgment and Decree dated 08.09.2022 made in M.C.O.P.No.615 of 2020.

2. The appellants along with the second and third respondents herein preferred a claim petition in M.C.O.P.No.615 of 2020 before the Tribunal, stating that on 17.12.2019 at about 11.00 p.m., while the deceased was standing near Vannankovil Bus Stop, the bus belonging to the first respondent, State Transport Corporation, came in a rash and negligent manner and dashed against the deceased, causing fatal injuries to him.



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3. The first respondent, State Transport Corporation, filed a counter before the Tribunal, stating that the deceased crossed the road unmindful of traffic; that he ought not to have crossed the road in that place, which resulted in the accident; and that hence, the claimants are not entitled to any compensation.

4. Before the Tribunal, the claimants examined two witnesses as P.W.1 and P.W.2 and marked Exs.P1 to P17, and the first respondent, State Transport Corporation, examined R.W.1, the driver of the bus.

5. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the rash and negligent driving of the bus driver and directed the first respondent, State Transport Corporation, to pay a compensation of Rs.14,86,250/- to the first to fourth claimants, who are the appellants and the second respondent herein. At the same time, the Tribunal has not awarded any compensation to the fifth claimant, the third respondent herein, who is the sister of the deceased, as she was not dependent on the deceased. The said finding has not been challenged by the third respondent/fifth claimant.



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6. The learned counsel for the appellants/first to third claimants submitted that though the claimants have established the avocation and the income of the deceased through the evidence of P.W.1, the wife of the deceased, that he was working as a server in a hotel and was earning nearly Rs.20,000/- per month, the Tribunal has taken the notional income at Rs.9,000/- per month, which is meagre, and hence prayed for enhancement of the compensation.

7. Since the appellants/first to third claimants challenge only the quantum of compensation in the instant appeal, the notice to the second and third respondents, who were the fourth and fifth claimants, is dispensed with.

8. The learned counsel for the first respondent, State Transport Corporation, per contra, submitted that the accident took place only due to the negligence of the deceased; that the Tribunal has ignored the evidence of R.W.1, the bus driver, who has stated that the deceased crossed the road, which is the national highways, where, there is no pedestrian crossing; and that the compensation awarded by the Tribunal is just and reasonable, and prayed for dismissal of the appeal.



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WEB COPY 9. It is seen that the finding on negligence has not been challenged by the first appellant, State Transport Corporation. The claimants examined P.W.2 as an eyewitness and marked FIR and other documents to corroborate the evidence of the said eyewitness to prove the manner of the accident. R.W.1, the bus driver, in his cross-examination, has admitted that a criminal case was registered against him, and the first respondent, State Transport Corporation, had taken a departmental action for his involvement in the accident. In the light of the above evidence, the finding of the Tribunal on negligence cannot be faulted.

10. Therefore, the only question involved in the instant appeal is whether the quantum of compensation awarded by the Tribunal is just and reasonable.

11. P.W.1 had deposed before the Tribunal that the deceased was working as a server in a hotel. Apart from the evidence of P.W.1, the claimants had not produced any document to prove either the avocation or the income of the deceased. However, considering the fact that the accident took place in the year 2019, the age of the deceased, and the



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evidence of P.W.1, this Court is of the view that it would be just and reasonable to fix the notional income at Rs.14,000/- per month. The deceased was 47 years old at the time of the accident. Therefore, 25% has to be added in the income towards future prospects. The applicable multiplier is 13. Since the deceased was survived by four claimants, namely, the wife, two children, and the mother, 1/4th of the income has to be deducted for personal expenses. Therefore, the compensation under the head 'loss of income' is modified as follows:

Loss of income:

Age of the deceased - 47 years

Notional monthly income - Rs.14,000/-

Annual Income [Rs.14,000 x 12] : Rs.1,68,000/-

Add: Future Prospects
[Rs.1,68,000/- x 25/100] : Rs. 42,000/-

: Rs.2,10,000/-

Less : Personal Expenses at 1/4th
[2,10,000 x 1/4] * : Rs. 52,500/-

: Rs.1,57,500/-

Multiplier - 13 [Rs.1,57,500/- x 13] - **Rs.20,47,500/-**



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12. The award of compensation under the heads 'transport expenses', 'loss of estate', and 'funeral expenses' is just and reasonable and is therefore confirmed.

13. The claimants, who are the wife, two children, and the mother of the deceased, are each entitled to Rs.44,000/- towards the loss of consortium.

14. The total compensation awarded by the Tribunal 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.13,16,250/-	Rs.20,47,500/-	Enhanced
2	Loss of Consortium	Rs. 35,000/-	Rs. 44,000/-	Enhanced
3	Loss of Parental Consortium (2 children)	Rs. 70,000/-	Rs. 88,000/-	Enhanced
4	Loss of Filial Consortium	Rs. 35,000/-	Rs. 44,000/-	Enhanced
3	Loss of Estate	Rs. 10,000/-	Rs. 10,000/-	Confirmed
4	Funeral Expenses	Rs. 10,000/-	Rs. 10,000/-	Confirmed
5	Transport Expenses	Rs. 10,000/-	Rs. 10,000/-	Confirmed
Total		Rs.14,86,250/-	Rs.22,53,500/-	Enhanced by Rs.7,67,250/-



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15. The first respondent, State Transport Corporation, is directed to deposit the enhanced amount of Rs.22,53,500/- together with interest at 7.5% per annum from the date of the claim petition, i.e., 08.01.2020, until the date of realization and proportionate costs, after deducting the amount already deposited, if any, within a period of twelve (12) weeks from the date of receipt of a copy of this Judgment.

16. The appellants/first to third claimants and the second respondent/fourth claimant are entitled to the compensation as per the apportionment fixed by the Tribunal.

17. The first appellant/first claimant and the second respondent/fourth claimant are permitted to withdraw their shares along with proportionate interest and costs, less the amount already withdrawn, if any, by filing a suitable application before the Tribunal.

18. Since the second and third appellants/second and third claimants are minors, their shares are directed to be deposited in an interest-bearing fixed deposit [F.D.] in any nationalized bank until they



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attain majority. The first appellant/first claimant is permitted to withdraw the accrued interest once every six months.

19. The appellants/first to third claimants and the second respondent/fourth claimant are directed to pay the necessary court fee, if any, for the enhanced amount of compensation.

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

No costs.

22.08.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order/Non-Speaking Order

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Copy To:

- 1.The Special District Judge,
Motor Accident Claims Tribunal,
Trichy
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras high Court,
Madurai.



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SUNDER MOHAN, J.

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