



C.M.A.(MD) No.1280 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

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1.Paramaraku Selvam,
2.Sappani,
3.Thalavaiammal,
4.Minor.Anitha.
(Represented through her mother and next guardian
1st appellant herein)

... Appellants

Vs.

Tamil Nadu State Transport Corporation Limited,
Through its Managing Director,
Bye pass road,
Madurai.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 01.04.2013 passed in M.C.O.P.No.743 of 2010, on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Tirunelveli.

For Appellants : Mr.T.Selvakumaran

For Respondent : Mr.K.A.Thirumalaiappan



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The claimants had filed the appeal seeking enhancement of the compensation.

2. Since the findings on negligence and liability are not under challenge, the facts leading to the filing of the claim petition are unnecessary for the disposal of the appeal.

3. The learned counsel for the appellants submitted that the deceased was working as a tailor, which is corroborated by the evidence of P.W.1/wife of the deceased; that the Tribunal had fixed meagre notional income of Rs.4,500/- p.m.; and that the compensation towards the 'loss of consortium' is meagre and hence prayed for enhancement.

4. The learned counsel for the respondent, per contra, submitted that the award of the Tribunal is just and reasonable and no interference is called for.

5. The only point for consideration in the instant appeal is '*whether*



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the quantum of compensation awarded by the Tribunal is just and reasonable?'

6. Though the first appellant/claimant examined himself as P.W.1 to establish that the deceased was working as a tailor, no documents have been produced either to prove his avocation or income of the deceased. The Tribunal had fixed the notional income of Rs.4,500/- p.m. Considering the year of accident (2010), avocation and age of the deceased and the number of dependents, this Court is of the view that the notional income for the deceased can be fixed at Rs.5,500/- p.m. He is entitled to 40% enhancement towards future prospects as he was aged 32 years at the time of the accident. Therefore, the compensation under the head loss of income has to be Rs.5,500/- + Rs.2,200/- (40%) x 12 x 17 x $\frac{3}{4}$ ($\frac{1}{4}$ deducted towards personal expenses since there are four dependents) = Rs.11,78,100/-.

7. The Tribunal had awarded Rs.20,000/- as 'loss of consortium' to the first appellant and Rs.10,000/- each towards 'loss of affection' for the first and fourth appellants and Rs.5,000/- each towards 'loss of affection' for the second and third appellants. This Court is of the view that the said



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award is not in accordance with the guidelines issued by the Hon'ble Supreme Court. The appellants are each entitled to Rs.40,000/- under the head 'loss of consortium'. Hence, the same is enhanced to Rs.1,60,000/-. Thus, the compensation awarded by the Tribunal is enhanced as follows:

Sl. No	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed, enhanced or granted
1	Loss of income	Rs. 6,88,500/-	Rs. 11,78,100/-	Enhanced
2	Loss of consortium and loss of affection	Rs. 50,000/-	Rs. 1,60,000/-	Enhanced
3	Funeral expenses	Rs. 10,000/-	Rs. 10,000/-	Confirmed
Total		Rs. 7,48,500/-	Rs.13,48,100/-	Enhanced by Rs.5,99,600/-

8. The respondent/Transport Corporation is directed to deposit the enhanced compensation amount of Rs.13,48,100/- (Rupees Thirteen Lakhs Forty Eight Thousand and One Hundred only) together with interest at 7.5% p.a., from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and proportionate costs, less the amount already deposited, if any, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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9. On such deposit, the appellants 1 to 3/claimants are permitted to withdraw their share amount with interest and costs, as per the apportionment fixed by the Tribunal, less the amount already withdrawn, if any, by filing appropriate application before the Tribunal. The appellants/claimants are directed to pay the necessary Court Fee, if any, on the enhanced amount.

10. The share of the minor claimant/fourth appellant herein may be deposited in any one of the Nationalized Bank in an interest-bearing Fixed Deposit, initially for a period of three years, renewable thereafter, till the minor attains majority. The guardian of the minor/the first appellant herein, who is her mother, is permitted to withdraw interest from the said deposit, once in three months and utilise the same for the welfare of the minor claimant/fourth appellant herein.

11. In the result, this Civil Miscellaneous Appeal is partly allowed.
No costs. Consequently, connected miscellaneous petition is closed.

16.10.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd



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To:

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1.The Motor Accidents Claims Tribunal, II Additional 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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