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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1166 of 2023

1. Agni Devi

2. Minor. Ponveni,

3. Minor Chellaparvathy

4. Minor. Sudalaimani

5. Ponnammal

... Appellants

[Minors Appellants 2 to 4 are Represented through their Mother and next Guardian 1st Appellant]

Vs.

1. Tamil Nadu State Transport Corporation Limited,
through its Managing Director,
No.2, Trivandrum Road,
Vannarapettai,
Tirunelveli.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to allow this appeal and enhance the award amount in M.C.O.P.No.1194 of 2013 on the file of the Motor Accidents Claims Tribunal (3rd Additional District Court), Tirunelveli, dated 08.10.2014.

For Appellants : M/s.T.Selvakumaran

For Respondent : Mr.S.Micheal Heldon Kumar



JUDGEMENT

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The claimants have preferred this appeal for enhancing the award amount granted in M.C.O.P.No.1194 of 2013 on the file of the Motor Accidents Claims Tribunal (III Additional District Court), Tirunelveli, dated 08.10.2014.

2. It is a case of fatal. The contention of the claimants is that the Tribunal has taken notional salary of the deceased as Rs.4,875/-. When the deceased was serving as Ambulance driver, then the income of the deceased ought to be fixed as Rs.12,000/-.

3. The Learned Counsel appearing for the Transport Corporation vehemently opposed the said contention and stated that there is no iota of evidence to substantiate that the deceased was serving as Ambulance driver, even the salary slip was not produced.

4. After hearing the arguments, this Court is of the considered opinion that as per *Syed Sadiq case* the notional income ought to be fixed as Rs.6,500/- for the accident happened in the year 2008. In the present case, the accident happened in the year 2013. Therefore, appropriate fixation should be more than 6,500/- and hence the fixation of notional salary by the Tribunal as



Rs.4,875/- is erroneous. By applying the inflation for the accident happened in the year 2013 the appropriate fixation would be Rs.8,000/-. Since the deceased was engaging as Ambulance driver, this Court is of the considered opinion that appropriate fixation of notional monthly salary in the present case should be Rs.9,000/-. Hence, the deceased salary is fixed as Rs.9,000/- with 30% future prospectus. Monthly income is Rs.9,000 = Rs.2,700 + Rs.11,700. Since the deceased was aged about 38 years at the time of accident 1/3 personal expenses to be deducted i.e., Rs.11,700 – Rs.3,900 = Rs.7,800/- and the multiplier is 16. Therefore, loss of income arrived as Rs.7,800 x 12 x 16 (multiplier) = Rs.14,97,600/-.

7. The further contention of the Transport Corporation is that the Tribunal has granted Rs.25,000/- for funeral expenses which is on the higher side. Accepting the said contention, this Court is fixing a sum of Rs.10,000/- for funeral expenses. The compensation granted under the other heads are hereby confirmed.



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8. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For Loss of income	Rs.8,77,500/-	Rs.14,97,600/-	enhanced
2.	For Filial Consortium	Rs. 75,000/-	Rs. 75,000/-	confirmed
3.	For Love and Affection	Rs.40,000/-	Rs. 40,000/-	confirmed
4.	For loss of estate	Rs.10,000 /-	Rs. 10,000/-	confirmed
5.	For Funeral expenses	Rs. 25,000/-	Rs. 10,000/-	reduced
Total		Rs.10,27,500	Rs.16,32,600/-	

This Court is enhancing a sum of **Rs.16,32,600/-** as compensation, from the total compensation of Rs.10,27,500/- granted by the Tribunal.

9. Accordingly, this Court is enhancing a sum of **Rs.16,32,600/-** as compensation, from the compensation granted by the Tribunal Rs.10,27,500/-. The Transport Corporation is directed to deposit the entire compensation amount with 7.5% interest from the date of filing the petition till the date of realization, within a period of 12 weeks from the date of receipt of a copy of the order, less the amount already deposited. The 1st claimant is entitled for a sum of Rs.6,32,000/- and the 2 to 5 claimants are entitled for a sum of Rs.2,50,000/-each, as compensation. The



claimants are not entitled any interest for the default period alone. On such deposit being made, the 1st and 5th claimants are entitled to withdraw their share with accrued interest and costs and the share of minor claimants to be deposited in anyone of the Nationalized Bank, till they attain majority. The 1st claimant is permitted to withdraw the interest on the deposited amount of the minor claimants within a period of three months in once. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee.

10. With these observations, this Civil Miscellaneous Appeal is partly allowed. No Costs.

06.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA

To

1. The Motor Accidents Claims Tribunal
(III Additional District Court),
Tirunelveli.

2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.1166 of 2023**

06.03.2024