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C.M.A.No.2737 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No.2737 of 2022

1.Kumaravel

2.Padmavathi

... Appellants / Petitioners

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Railway Station, New Road,
Kumbakonam Post,
Thanjavur District.
Respondent

... Respondent /

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and Decree dated 01.04.2022 passed in M.C.O.P.No.1113 of 2019 on the file of the Motor Accident Claims Tribunal, (The Special District Judge), Salem.

For Appellants : Mr.V.Sanjay

For Respondent : M/s.M.Rohini
For Mr.C.Senapathi



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JUDGMENT

WEB COPY This Civil Miscellaneous appeal has been filed by the claimants seeking enhancement of compensation awarded in M.C.O.P.No.1113 of 2019, dated 01.04.2022 on the file of the Motor Accident Claims Tribunal (Special District Court for MACT Cases), Salem.

2. The parties are referred to herein according to their litigative status and ranking before the Tribunal.

3. The claimants are the parents of one Arun, aged 25 years, who died in the road accident taken place on 28.02.2018 at about 23.05 hours on the Salem to Attur Main Road.

4. The respondent is the Transport Corporation, owner of the offending vehicle and its driver is the tortfeasor.

5. The claimants have come forward with the claim petition claiming compensation of Rs.50,00,000/- by invoking Section 166 of the Motor Vehicles Act, 1988.



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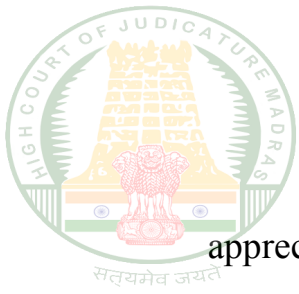
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6. The respondent - Transport Corporation has contested the claim disputing the age, income, avocation of the deceased and also dependency of the claimants.

7. The Tribunal after considering the evidence placed on record by both sides, accepted the case of the claimants that the driver of the respondent/Transport Corporation is the tortfeasor and that the Transport Corporation is liable to pay compensation for causing the death of the claimants son namely Arun. The Tribunal has also quantified the compensation and awarded a sum of Rs.11,45,000/- along with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of realisation.

8. Aggrieved over the quantum of compensation, the claimants have come forward with this appeal seeking enhancement of compensation.

9. The learned counsel for the claimants/appellants submitted that the notional income fixed by the Tribunal is on the lower side without properly



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appreciating Ex.P3, which is the Salary Certificate. The Tribunal has fixed the monthly notional income of the deceased at Rs.10,000/- and the same is on the lower side hence, prays to enhance the same by accepting Ex.P3 - Salary Certificate. The learned counsel further submitted that the compensation awarded under various heads are also on the lower side and prays to enhance the same.

10. The learned counsel for the Transport Corporation submitted that the Tribunal after considering the evidence placed on record on its entirety and fixed the monthly income of the deceased hence, there is no interference is warranted to enhance the same.

11. I have considered the submissions made on both sides and also perused the records available.

12. Admittedly, the claimants herein have not examined the person who was issued Ex.P3 - Salary Certificate. The Tribunal has also recorded in its findings that the person who was issued Pay Slip to prove the income of the deceased has not been examined and except one page Salary Statement

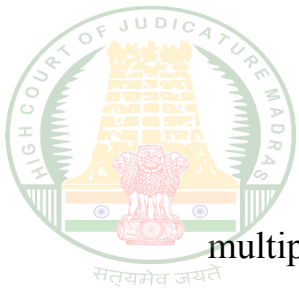


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no other documents or no witnesses were examined to substantiate Ex.P3 –

Salary Certificate and this Court finds there is no reason to interfere with this finding. However, I am of the view that notional income fixed by the Tribunal at Rs.10,000/- for the accident taken place in the year 2018 is on the lower side. In Ex.P1-Copy of Provisional Certificate, stated that the deceased was a diploma holder in Engineering however, there is no evidence has been produced to show that the deceased was employed. Considering the same, I am of the view that fixing the notional income of Rs.13,750/- would be appropriate as per the Division Bench judgment of this Court in *Andal and others vs. Avinav Kannan and others [2019 (1) TN MAC 54 (DB)]* based on the Apex Court judgement in *Syed Sadiq Vs. United India Insurance Company [2014 (1) TNMAC 459]*.

13. The claimants are also entitled for compensation under the head future prospects of 40% as per the dictum as laid down by the Hon'ble Apex Court in *National Insurance Co. Ltd., vs. Pranay Sethi and other [2017(2) TN MAC 609 (SC): 2017 (16) SCC 680]* and as per the Hon'ble Apex Court in *Sarla Verma and others Vs. Delhi Transport Corporation and others [2009 ACJ 1298 SC : 2009 (6) SCC 121]*, the Tribunal has rightly applied



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multiplier as '18' by considering the age of the deceased at the time of the accident.

14. The deceased is a bachelor hence deducted 1/2 as the personal expenses. Accordingly, loss of income is calculated as follows: {[13750 + 5500 (40% of 13750)] 19250 x 12 x 18 x 1/2} = Rs.20,79,000/-.

15. The Tribunal has not awarded compensation under the head loss of consortium and as per the dictum laid down by the Hon'ble Apex Court in ***Magma General Insurance Company Ltd., vs. Babu Ram [2018 (18) SCC 130]*** a sum of Rs.40,000/- is to be awarded for each of the claimants. In ***United India Insurance Co., Limited vs. Satinder Kaur and Ors. [MANU/SC/0500/2020 : (2021) 11 SCC 780]***, it is clarified that Loss of Love and Affection included in the Loss of Consortium.

16. The Tribunal has failed to award compensation under the head loss of estate and this Court is inclined to award a sum of Rs.15,000/- under the head loss of estate.



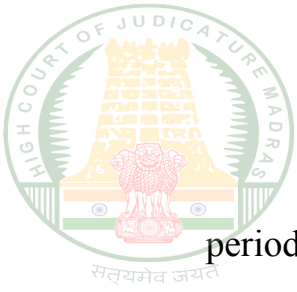
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17. As far the compensation awarded under the head funeral expenses is concerned, the Tribunal has awarded a sum of Rs.25,000/- for the head funeral expenses, which is on the higher side and the same is modified to Rs.15,000/-.

18. Accordingly, the award passed by the Tribunal under various heads are hereby modified as follows:

S. No	Description	Amount awarded by the Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced
1.	Loss of Income	Rs.10,80,000/-	Rs.20,79,000/-	Enhanced
2.	Loss of Love and Affection / Loss of Consortium	Rs.40,000/-	Rs.80,000/-	Modified
3.	Funeral Expenses	Rs.25,000/-	Rs.15,000/-	Reduced
4.	Loss of Estate	--	Rs.15,000/-	Granted
	Total Compensation	Rs.11,45,000/-	Rs.21,89,000/-	Enhanced by Rs.10,44,000/-

19. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.11,45,000/- is hereby enhanced to Rs.21,89,000/- [Rupees Twenty One Lakhs and Eighty Nine Thousand only] together with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default



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period, if any. The Transport Corporation is directed to deposit the amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.1113 of 2019 on the file of the Special District Judge, Motor Accidents Claims Tribunal, Salem. On such deposit, the claimants are permitted to withdraw their respective share of the award amount along with interest and costs, less the amount if any, already withdrawn. The Tribunal shall disburse the award amount by directly crediting in to the Savings Bank Account of the claimant. Since this Court has enhanced the compensation, the appellants/claimants are directed to pay the necessary Court fee, if any, on the enhanced compensation. There shall be no order as to costs in the present appeal.

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Index:Yes/No

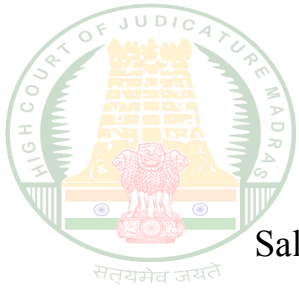
Speaking Order:Yes/No

Neutral Citation Case: Yes/No

To:

1. The Special District Judge,
Motor Accident Claims Tribunal,

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Salem.

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2. The Section Officer,
V.R.Section,
High Court, Chennai.

K. RAJASEKAR., J.

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