



C.M.A.(MD)No.246 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.246 of 2023

Raja (Died)

Arokyamary

... Appellant

VS.

The Branch Manager,
Tamil Nadu State Transport Corporation,
Kumbakonam Division,
Kumbakonam

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to modify the award dated 07.04.2017 in M.C.O.P.No.146 of 2011 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Pudukottai to enhance the compensation of Rs.9,45,460/-.

For appellant : Mr.G.Madhavan

For Respondent : Mr.K.Ramaiah

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the legal heir of the 1st claimant deceased Raja against the Award dated 07.04.2017 passed



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in M.C.O.P.No.146 of 2011 by the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Pudukottai, for enhancement of compensation.

2. Heard the learned counsel for the appellant / claimant and the learned counsel for the respondent / Tamil Nadu State Transport Corporation.

3. Originally, the deceased 1st claimant had filed a claim petition claiming compensation of Rs.50,00,000/- for the injuries sustained by him in a road accident that occurred on 02.11.2010.

4. At trial, common evidence was recorded in M.C.O.P.No.145 of 2011 and M.C.O.P.No.146 of 2011. On the claimant side, two witnesses were examined and thirteen documents were marked. On the respondent side, one witness was examined.

5. Upon consideration, the Tribunal held that as no post-mortem was conducted upon the body of the deceased 1st claimant, it cannot be decided that due to the sustenance of the accidental injuries he died and the actual expenses incurred by the 1st claimant for treatment, namely Rs.54,540/- was



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ordered. Against this finding, the dependent of the deceased Raja has preferred this appeal for enhancement of compensation.

6. It has come on record through the evidence of P.W1 – Mrs.Arokiyarnary, Mother of the deceased Raja that her son sustained grievous injuries and he was under continuous treatment. During the course of treatment, he died on 14.10.2012. Ex.P3 is the treatment record issued by the Thanjavur Medical College Hospital. As per Ex.P3 - Treatment Record, he has suffered orbital fracture and he underwent surgery for right zygomatic elevation. From 20.06.2011 onwards, he was under treatment continuously till 04.10.2012 and under treatment. Ex.P10 is the Mortuary Card. P.W1 – Mother of the deceased has not stated in which hospital her son was admitted soon before his death and from Ex.P10 – Mortuary card also, it is not deducible by which hospital it was issued. From a careful perusal of Ex.P4 and Ex.P10, it appears that the deceased Raja was admitted on 12.10.2012 for the problem of acute meningoencephalitis / cardio respiratory arrest and he also had a problem of neck rigidity at the time of admission. Therefore, this Court has no hesitation to conclude that only on account of the accidental injuries at the age of 22 years, the 1st claimant Raja died.



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7. It is the evidence of the mother of the deceased Raja (P.W1) that he was working as a Mason and earning a sum of Rs.12,000/- per month. As per the treatment records (P.W3), the age of the deceased Raja at the relevant point of time was 20 years. The date of accident is 02.11.2010. Considering the fact that the deceased at the age of 20 years, worked as a construction coolie, income of the deceased Raja is safely fixed at Rs.7,000/- per month. As per the law laid down by the Hon'ble Supreme Court in *National Insurance Co. Ltd., vs Pranay Sethi and others* reported in 2017 (2) TN MAC 609 (SC), for the persons below 40 years, 40% has to be deducted as future prospects while computing the monthly income. As held in *Smt.Sarla varma and others vs Delhi Corporation and another* reported in 2009(2) TNMAC 1 (SC), the Hon'ble Supreme Court has standardized the deduction for personal and living expenses. The deceased left behind his widowed mother. Ex.P8 is the death certificate of Arokiya Baskar, who is the father of the deceased Raja. His mother is the only dependent and therefore, 1/3rd has to be deducted for the deceased having a widowed mother and the relevant multiplier to be adopted is '18'm. For computation of loss of dependency, following formula emerges.

$$\begin{aligned}\text{For Loss of dependency} &= [(Rs.7,000/+ 40\%) - 1/3^{rd}] \times 12 \times 18 \\ &= Rs.14,11,344/-\end{aligned}$$



8. As regards the loss of consortium, a sum of Rs.40,000/- is granted.

For loss of estate and funeral expenses, a sum of Rs.15,000/- under each head is granted. As regards the other heads, the amounts awarded by the Tribunal appears to be acceptable and reasonable, and those details are not interfered with.

9. The compensation granted by the Tribunal is reworked and tabulated as given hereunder:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Dependency	-	Rs.14,11,344/-	Granted
2	For Medical Expenses	Rs.19,540/-	Rs.19,540/-	Confirmed
3	For Loss of Consortium	-	Rs.40,000/-	Granted
4	For transport charges	Rs.25,000/-	Rs.25,000/-	Confirmed
5	For Loss of Estate	-	Rs.15,000/-	Granted
6	For Loss of Funeral expenses	-	Rs.15,000/-	Granted
7	For extra nourishment	Rs.10,000/-	Rs.10,000/-	Confirmed
	Total	Rs.54,540/-	Rs.15,35,884/-	Enhanced



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10. Thus, the compensation awarded by the Tribunal is enhanced from Rs.54,540/- to Rs.15,35,884/-/- which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

11. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. There is no order as to costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.54,540/- to Rs.15,35,884/-.

(iii) The respondent Transport Corporation is directed to deposit the enhanced compensation amount now determined by this Court i.e., Rs.15,35,884/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.146 of 2011 on the file of Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Pudukottai, within a period of six weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is permitted to withdraw the amount now determined by this Court along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.



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(v) The appellant / claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

31 .01.2025

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

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R.KALAIMATHI,J.

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To

1. The Chief Judicial Magistrate Court, Pudukottai
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

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