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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2026

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.661 of 2024

1.Neela

2.Sabarish Kumar

3.Minor Vijayadharshini

4.Kaveri Goundar

5.Govindammal

..Appellants

.vs.

1.Rathinasamy

2.The United Insurance Company Limited,
Salem Main Road,
Puduchampalli,
Raman Nagar Post,
Mettur Dam, Salem District
PIN 636 403.

3.Rajendran

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Decree passed in MCOP.No.1430 of 2017, dated 07.02.2020, on the file of the Special District Judge, Motor Accident Claims Tribunal, Salem.



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For Appellants : Mr.N.Umapathi

For Respondents : Mr.J.Chandran for R2

JUDGMENT

This appeal has been filed challenging the Award passed by the MACT, Special District Judge, Salem in MCOP No.1430 of 2017 dated 07.02.2020, wherein, the claimants are seeking for enhancement of compensation.

2.The claimants are also questioning the Award of the Tribunal exonerating the 2nd respondent/Insurance Company from paying the compensation.

3.The 1st claimant is the wife, claimants 2 and 3 are the minor children and claimants 4 and 5 are the parents of the deceased Singaravelan.

4.The case of the claimants is that on 19.02.2017, the deceased was travelling in a bus driven by one Raja, in his capacity as a spare driver, from Dharapuram-Chennai. The deceased drove the vehicle up to Villupuram and thereafter, the said Raja started driving from Villupuram- Chennai. While the bus reached near Pathiri bus stop, the offending vehicle belonging to the 3rd

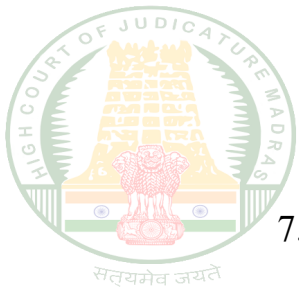


respondent which is a lorry was driven in a rash and negligent manner and it suddenly changed the direction without any indicator and as a result, the bus in which the claimant was travelling dashed on the offending vehicle and deceased was thrown out of the bus through the front windshield and was ran over by the bus, resulting in his instantaneous death. An FIR came to be registered against the driver of the lorry in Crime No.53 of 2017. It is under these circumstances, the claim petition came to be filed before the Tribunal.

5.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the negligence on the part of the lorry driver and hence, the liability was put against the 3rd respondent.

6.The Tribunal thereafter proceeded to fix the total compensation at Rs.10,38,088/- under various heads as follows:

Compensation awarded under the head	Amount (in Rs.)
Loss of dependency	9,68,088
Loss of Consortium	40,000
Loss of Estate	15,000
Funeral Expenses	15,000
Total	10,38,088



7.The above compensation was directed to be paid by the 3rd respondent with interest at the rate of 7.5% per annum.

8.Aggrieved by the same, the claimants have filed the present appeal seeking for enhancement of compensation.

9.Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the respondents.

10.The main ground that was raised is that the driver of the lorry also died in the accident and his legal heirs filed MCOP No.819 of 2017 before the MACT, Special District Court, Thanjavur and in that case, the Tribunal held that the negligence was only on the part of the above said Raja who was driving the bus. Accordingly, an Award was passed on 29.01.2018, directing the 2nd respondent/Insurance Company to pay the compensation. This Award was marked as EX.P9. It is contended that, since the negligence has been held against the driver of the bus, the claimants in this case are also entitled for payment of compensation, since the demise of the deceased had taken place only due to the rash and negligent driving on the part of the bus driver. Consequently, the claimants are seeking for payment of compensation by the 2nd respondent/Insurance Company.



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11. In the considered view of this Court, the entire pleadings and the evidence was focused only upon the negligence of the 3rd respondent. Therefore, the Tribunal has rightly come to a conclusion that the 2nd respondent/Insurance Company cannot be made liable to pay the compensation, since it only covers the bus owned by the 1st respondent. This finding rendered by the Tribunal does not suffer from any perversity warranting the interference of this Court.

12. It is true that the law of pleadings will not strictly apply in motor accident cases. However, that does not mean that the claimants can be permitted to take a completely contradictory stand midway through the proceedings. If that is allowed, it will become impossible for the respondent to take a stand in a claim petition. Ultimately, evidence must have the basis by means of pleadings and the evidence and the pleadings cannot be running contrary to each other. Therefore, the attempt made by the claimants to put the entire negligence on the bus driver, midway, is unsustainable.

13. Insofar as the compensation amount is concerned, the Tribunal has proceeded to determine the compensation under the head of loss of



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dependency by fixing the age of the deceased as 51 years. A careful reading of the Driving License and Identity Card issued by Election Commission marked as EX.P5 and the Postmortem Certificate marked as EX.P3, shows that the deceased has not completed 50 years. The Tribunal has fixed the age of the deceased as 51 years which is erroneous. Consequently, 11 multiplier has been adopted instead of 13.

14.Insofar as the income of the deceased is concerned, the Tribunal has fixed the income at Rs.10,000/-. It is clearly on the lower side. The accident had taken place in the year 2017. Hence, this Court is inclined to fix the notional monthly income at Rs.15,000/-. The Tribunal has deducted towards personal expenditure 1/3rd. However, it is seen that there are totally five claimants in this case and therefore, 1/4 ought to have been deducted by the Tribunal.

15.In the light of the above discussion, the compensation under the head of loss of dependency is calculated as follows:

$$[Rs.16,500/- (Rs.15,000/- + 10\%) - Rs.4125] = Rs.12,375/- \times 12 \times 13 = Rs.19,30,500/-$$



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16.The Tribunal has granted only a sum of Rs.40,000/- under the head of loss of consortium. This Court is inclined to enhance the same to Rs.2,00,000/- (Rs.40,000/- x 5).

17.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

Compensation awarded under the head	Amount (in Rs.)
Loss of dependency	19,30,500
Loss of Consortium	2,00,000
Loss of Estate	15,000
Funeral Expenses	15,000
Total	21,60,500

18.The compensation awarded by the tribunal at Rs.10,38,088/- is enhanced to Rs.21,60,500/-. The second respondent/insurance company is directed to deposit the enhanced compensation of Rs.21,60,500/-, less the amount already deposited, together with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.11,22,412/- is concerned, the appellant/claimant will not



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be entitled for interest for the period of delay of 1335 days as was ordered by this Court in C.M.P.No.500 of 2024, dated 01.03.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

19.In the result, this Civil Miscellaneous Appeal is partly allowed of in the above terms. No Costs.

15.07.2026

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

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



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N. ANAND VENKATESH., J

SSR

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