



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.M.A(MD)Nos.608 & 609 of 2020

&CMP(MD)No.6263 of 2020

1.Malar

2.Minor Mani Bharathi
rep. by her mother and
guardian the 1st appellant and
1st Respondent

3.Lakshmi .. Appellants in CMA(MD)No.608
of 2020 and Respondents in
CMA(MD)No.609 of 2020

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Nandavanapatti, Bye pass Road,
Dindigul.

.. Respondent in CMA(MD)No.608
of 2020 and Appellant in
CMA(MD)No.609 of 2020

PRAYER in CMA(MD)No.608 of 2020: The Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree made in M.C.O.P.No.57 of 2015 on the file of the Motor Accident Claims Tribunal(Addl. District Judge), Dindigul dated 04.02.2019 in so far as the quantum of compensation.

PRAYER in CMA(MD)No.609 of 2020: The Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree dated 04.02.2019 passed in M.C.O.P.No.57 of 2015 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Dindigul.

For Appellants in
CMA(MD)No.608 of 2020
and Respondents in
CMA(MD)No.609 of 2020 : Mr.A.Saravanan



For Respondent in
CMA(MD)No.608 of 2020
and Appellant in
CMA(MD)No.609 of 2020 : Mr.K.Sudalaiyandi

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ORDER

These appeals arise out of the same accident that took place on 03.11.2014. On the fateful moment, a bus belonging to the Tamil Nadu State Transport Corporation ran over a pedestrian, a young man aged 35 years, and a driver by avocation, and killed him on the spot. Claiming compensation, his heirs approached the Tribunal in M.C.O.P.No.57 of 2015. The Tribunal has passed an Award for Rs.12,52,000/-.

2. Aggrieved by the same, the Insurance Company has filed CMA(MD) No.609 of 2020 on the ground that the notional income for the victim was fixed at Rs.9,000 and for an accident that took place in 2014, the Court should have fixed it by 2014 standards, that this notional income is on a higher side. Complaining that the Tribunal has not added the future prospects of increase in income for the victim, the claimants have approached this Court in C.MA (MD)No.608 of 2020.

3. Heard both sides and perused the papers placed on record. It is not in dispute that the victim of the accident was a young and able bodied man, and was a driver at the relevant time. These are times when it is extremely difficult to get a competent driver and they carry a price for their service. Therefore, this Court considers Rs.9,000/- as fixed by the Tribunal as the notional income of the victim is fair and reasonable and does not intend to interfere with the same. Therefore, the C.MA(MD)No.609 of 2020 is liable to be dismissed.

4. Turning to the claimants appeal in CMA(MD)No.608 of 2020, it is indisputable that the Tribunal has omitted to consider the future prospects of increase in income for the victim. As per the ratio in **National Insurance Company Vs. Pranay Sethi** [2017(16) SCC 680], for a person in the age group of 35 years, 40% must be added to the notional income and accordingly, an additional Rs.3,600 has to be added. Out of this, 1/3rd must be deducted towards personal expenses of the victim and this will make his net monthly income at Rs.8,400/- and applying the multiplier 16, the total amount on the ground of loss of dependency is Rs.16,12,800/-. Accordingly, on the head of loss of income, the claimants are entitled to a compensation of Rs.16,12,800/-. As to the others, this Court does not want to interfere with the Award of the Tribunal. In all, the claimants are entitled to Rs.17,12,800/-.



5. Accordingly, the claimants are entitled to get the following compensation:

Sl. No.	Heads	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Loss of Income	11,52,000.00	16,12,800.00
2.	Loss of Consortium	40,000.00	40,000.00
3.	Loss of love and affection	40,000.00	40,000.00
4.	Funeral expenses	20,000.00	20,000.00
Total		12,52,000.00	17,12,800.00

6. In the result, CMA.No.609 of 2020 is dismissed and CMA.No.608 of 2020 is allowed and the total compensation amount payable to the appellants/claimants before the Tribunal is enhanced from Rs.12,52,000 to Rs.17,12,800/-. The appellant in CMA(MD)No.609 of 2020 and the respondent in CMA(MD)No.608 of 2020 is directed to deposit the entire compensation amount before the Tribunal within a period of eight weeks from the date of receipt of a copy of this order with interest at 7.5.% p.a throughout. The Tribunal shall deposit the share of the second appellant who is a minor claimant, in a Fixed Deposit in any one of the Nationalised Banks, which shall be renewed periodically till she attains majority. The first respondent-mother of the minor is permitted to withdraw 50% of the amount interest on the share of her minor children, viz., the second appellant herein, once in three months from the Bank directly. The claimants are permitted to withdraw the amount in the same proportion in which it has been apportioned between them by the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)



To

The Additional District Judge,
Motor Accident Claims Tribunal,
Dindigul.

+1 cc to Mr.A.Saravanan , Advocate SR.No.24458

+1 cc to Mr.K.Sudalaiyandi , Advocate SR.No.24314

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KM (29.01.2021) 4P 4C