



C.M.A. (MD).Nos.1142, 1143, 1144, 1145, 1146 and 1147 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2021

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD).Nos.1142, 1143, 1144, 1145, 1146 and 1147 of 2021
and

C.M.P. (MD)Nos.11042,11044,11045,11047,11048 and 11049 of 2021

The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Periyamilaguparai,
Trichirapalli

...Appellant/Petitioner in all CMAs

Vs.

1.S.Mohamed Shamil
2.S.Sharmila

...Respondents/Respondents
in CMA (MD)Nos.1142, 1143,1145 of 2021

Sovarobina

...Respondents/Respondents
in CMA (MD)Nos.1144 of 2021

S.Sharmila,

...Respondents/Respondents
in CMA (MD)Nos.1146 of 2021

1.Sivarobina

2.Ravichandran,

...Respondents/Respondents
in CMA (MD)Nos.1147 of 2021

Prayer in CMA(MD).No.1142 of 2021:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the impugned award passed in M.C.O.P.No.864 of 2016 on the file of the Motor Accidents Claims Tribunal (Special District Judge), Trichy, dated 24.03.2021.

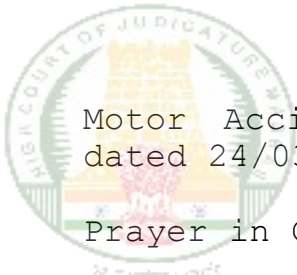
Prayer in CMA(MD).No.1143 of 2021:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Judgement and decree passed by the Motor Accident Claims Tribunal(Special District Judge), Trichy in M.C.O.P.No.865 of 2016 dated 24.03.2021.

Prayer in CMA(MD).No.1144 of 2021:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 preferred against the judgment and decree of the

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Motor Accident Claims Tribunal/ Special District Judge, Trichy, dated 24/03/2021 made in MCOP.No.1208/2016.

Prayer in CMA(MD).No.1145 of 2021:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 preferred against the judgment and decree of the Motor Accident Claims Tribunal/ Special District Judge, Trichy, dated 24/03/2021 made in MCOP.No.866/2016.

Prayer in CMA(MD).No.1146 of 2021 :-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 preferred against the judgment and decree of the Motor Accident Claims Tribunal/ Special District Judge, Trichy, dated 24/03/2021 made in MCOP.No.867/2016.

Prayer in CMA(MD).No.1147 of 2021:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 preferred against the judgment and decree of the Motor Accident Claims Tribunal/ Special District Judge, Trichy, dated 24/03/2021 made in MCOP.No.1207/2016.

For Appellants :Mr.P.M.Vishnuvarthanan
For Respondents :Mr.M.Jerin Mathew
(in all CMAs)

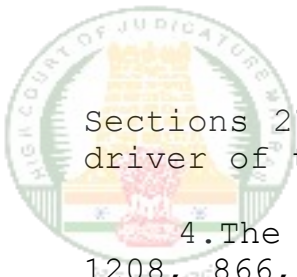
COMMON JUDGMENT

The Civil Miscellaneous Appeals have been directed against the impugned award, dated 24.03.2021 made in M.C.O.P.Nos.864, 865, 1208, 866, 867, 1207 of 2016 on the file of the Motor Accident Claims Tribunal/Special District Judge, Trichy.

2.Since the facts involved in all these civil miscellaneous appeals are one and the same and the Court below also decided the issue by way of a common judgement, these matters are taken up together and decided by this common judgment.

3. The case of the claimants in nutshell is as follows:

On 05.06.2016 at about 07.15 p.m., when the deceased and others returned to their home in the car bearing Registration No.TN-45-AS-2305 (Maruthi Car) after went to Sithanavsal Temple and parked near Pudukottai Trichy National Highway from south to north by following the traffic rules and regulations. At that time, near Bommadimalai bus stand, the appellant corporation bus, bearing Registration No.TN-45-N-3594, which was driven by its driver from north to south, in a rash and negligence manner and suddenly came to west and dashed in front of the car, in which the deceased was travelled. Due to the said accident, the deceased and two others died on the spot and some others sustained injury. A case in Crime No.155 of 2016 under



Sections 279, 337, 338 and 304(A) of IPC was registered against the driver of the appellant transport Corporation bus.

4.The claimants filed applications in M.C.O.P.Nos.864, 865, 1208, 866, 867 and 1207 of 2016, on the file of the Motor Accident Claims Tribunal/Special District Judge, Trichy, seeking compensation.

5.Before the Tribunal, on the side of the claimants, three witnesses were examined as P.W.1 to P.W.3 and thirty five documents were marked as Exs.P.1 to P.35 and on the side of the respondents, one witness was examined as R.W.1 and no documents were marked.

6.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the appellant Transport Corporation Bus, and therefore, directed the appellant/State Transport Corporation to pay compensation. Against which, the appellant herein has filed these present appeals to set aside the award of compensation passed by the Tribunal.

7.Heard the learned counsel for the appellant and the learned counsel appearing for the respondents and perused the materials available on record.

8.The learned counsel appearing for the appellant Transport Corporation contended that the driver of the Maruthi Car was responsible for the accident. But the Tribunal was wrong in fastening liability only on the appellant/Transport Corporation. He also contended that the Tribunal had awarded an exorbitant amount towards compensation in all the cases.

9. *Per contra*, the learned counsel appearing for the claimants in all the cases contended that the Tribunal, after considering all the aspects of the cases, fixed the negligence on the part of the driver of the bus and awarded a just compensation and the same cannot be said to be on the higher side.

10.As far as the negligence aspect is concerned, the F.I.R. was registered against the driver of the TNSTC bus, which was marked as Ex.P1 and charge sheet has also been filed, which was marked as Ex.P4. The claimants in M.C.O.P.Nos.864, 865 and 866, who were examined one PW1, who clearly stated that only the bus driver drove the bus in a rash and negligent manner and dashed against the Maruthi Car. There was no contra evidence against the driver of the Maruthi Car. So the Tribunal, after considering all the facts, held that the accident occurred only due to the rash and negligent driving of the driver of the bus and rightly fixed liability on the appellant/Transport Corporation. There is no error in the said finding.

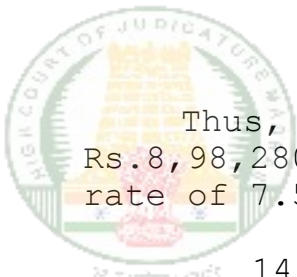


11.As far as quantum of compensation is concerned, in C.M.A(MD) No.1142 of 2021, at the time of accident, the deceased was aged about 41 years and she was working as a Tailor. The Tribunal has fixed Rs.6,000/- as monthly income in M.C.O.P.No.864 of 2016 and considering the age of the deceased, applying multiplier '14', which is very reasonable. Fixation of compensation under the various other heads are all reasonable. The Tribunal, awarding a sum of Rs.9,37,000/- as compensation for the claimants, is reasonable and the same is confirmed.

12. In C.M.A(MD)No.1143 of 2021, at the time of accident, the deceased was aged about 21 years and she was studying B.Com. first year student. In M.C.O.P.No.865 of 2016, the Tribunal has fixed Rs.4,000/- as monthly income and added 40% towards future prospectus. Considering the age of the deceased, applied the multiplier '18', which is very reasonable. Fixation of compensation under various other heads are all reasonable. Awarding a sum of Rs.9,03,328/- as compensation for the claimants, is also reasonable and the same is confirmed.

13.In C.M.A(MD)No.1144 of 2021, the claimant undertook treatment as inpatient from 20.05.2017 to 14.06.2017 for injuries sustained by her. On perusal of wound certificate Ex.C1 would show that the claimant in M.C.O.P.No.1208 of 2016 sustained 50% of permanent disability. But the Tribunal has granted Rs.5,000/- for 1% disability and awarded Rs.2,50,000/- for her disability, which is very high. Hence, this Court fixed Rs.3,000/- for 1% disability and awarded Rs.1,50,000/- towards permanent disability and also awarded Rs.30,000/- towards pain and suffering. All the other heads awarded by the Tribunal are reasonable and confirmed the same. Accordingly, the claimant is entitled for compensation as follows:

S.No.	Head	Amount granted by this Court
1.	Transportation charges	Rs. 15,000/-
2.	Loss of income (Rs.6,000/- x 2 months)	Rs. 12,000/-
3.	Extra nourishment	Rs. 20,000/-
4.	Attendant Charge	Rs. 6,000/-
5.	Medical Bills	Rs. 5,35,280/-
6.	Pain and sufferings	Rs. 30,000/-
7.	Partial permanent disability	Rs. 1,50,000/-
Total		Rs. 7,68,280/-



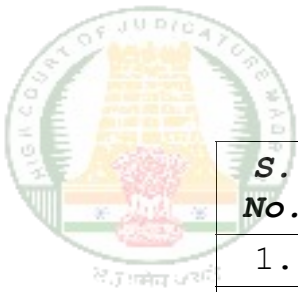
Thus, the compensation awarded by the Tribunal is reduced from Rs.8,98,280/- to Rs.7,68,280/- which would carry interest at the rate of 7.5% per annum.

14. In C.M.A(MD)No.1145 of 2021, at the time of accident, the deceased child was aged about 12 years and he was studying 7th standard. In M.C.O.P.No.866 of 2016, the Tribunal has taken his mother's age and applied the multiplier as '14' and calculated the compensation. As per the judgment in **Royal Sundaram Alliance Insurance Co. Ltd. Vs. S. Vani & Ors.** reported in (2020 ACJ 1920) (Kerala High Court), if the deceased age was below 15 years, notional income to be fixed at Rs.45,000/- without any future prospectus and also without deducting personal expenses. Eventhough the claimant has not filed any appeal, the Tribunal apparently erred in fixing compensation, this Court has enhanced the amount as per the **Reshmakumari case**, multiplier will be applied as '15' for below 15 years. Hence, loss of income arrived at Rs.45,000/- x 15 = Rs.6,75,000/-. All the other heads awarded by the Tribunal are hereby confirmed. Accordingly, the claimants are entitled for compensation as follows:

Sl. No.	Compensation heads	Details of amount
1.	Loss of Dependency	Rs. 6,75,000/-
2.	Transportation	Rs. 7,000/-
3.	Loss of Consortium (each Rs.35,000/- x 2)	Rs. 70,000/-
4.	Funeral Expenses	Rs. 10,000/-
5.	Loss of estate	Rs. 10,000/-
	Total	Rs. 7,72,000/-

Thus, the compensation awarded by the Tribunal is enhanced from Rs.6,01,000/- to Rs.7,72,000/- which would carry interest at the rate of 7.5% per annum.

15. In C.M.A(MD)No.1146 of 2021, at the time of accident, the claimant in M.C.O.P.No.867 of 2016 was aged about 19 years and she was studying 12th standard. She sustained only grievous injury not permanent disability. But the Tribunal erred in granting Rs.6,000/- towards attendant charge and the same was deleted and awarded Rs.50,000/- towards pain and sufferings, which is very high. Hence, this Court reduced the same and granted Rs.25,000/- towards pain and sufferings. Except the aforesaid modifications, the amount awarded in all the other heads by the Tribunal are hereby confirmed. Accordingly, the claimant is entitled for compensation as follows:



S. No.	Head	Amount granted by this Court
1.	Transportation charges	Rs. 15,000/-
2.	Medical bills	Rs. 14,750/-
3.	Extra nourishment	Rs. 15,000/-
4.	Pain and sufferings	Rs. 25,000/-
Total		Rs. 69,750/-

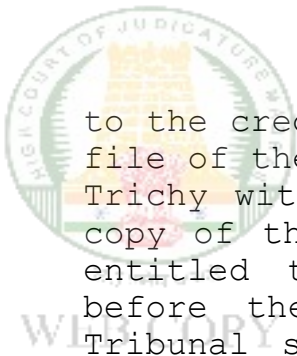
Thus, the compensation awarded by the Tribunal is reduced from Rs.1,00,750/- to Rs.69,750/- which would carry interest at the rate of 7.5% per annum.

16. In C.M.A(MD)No.1147 of 2021, at the time of accident, the deceased child was aged about 7 years and he was studying third standard. The Tribunal has taken his mother's age in M.C.O.P.No.1207 of 2016 and applied the multiplier as '15' and calculated the compensation. As per the judgment in **[Royal Sundaram Alliance Insurance Company Limited Vs. S.Vani and others]** reported in (2019 (2) TNMAC 223), notional income to be fixed at Rs.45,000/-. As per **Sarala Verma Case** multiplier will be applied '15'. Hence, loss of income arrived at Rs.45,000/- x 15 = Rs.6,75,000/-. Except the aforesaid modifications, all the other heads awarded by the Tribunal are hereby confirmed. Accordingly, the claimants are entitled for compensation as follows:

Sl. No.	Compensation heads	Details of amount
1.	Loss of Dependency	Rs. 6,75,000/-
2.	Transportation	Rs. 7,000/-
3.	Loss of Consortium (each Rs.35,000/- x 2)	Rs. 70,000/-
4.	Funeral Expenses	Rs. 10,000/-
5.	Loss of estate	Rs. 10,000/-
	Total	Rs.7,72,000/-

Thus, the compensation awarded by the Tribunal is enhanced from Rs.6,37,000/- to Rs.7,72,000/- which would carry interest at the rate of 7.5% per annum.

17. These Civil Miscellaneous Appeals in C.M.A(MD)Nos.1142 and 1143 of 2021 are dismissed. The appellant /Tamil Nadu State Transport Corporation, is directed to deposit the compensation awarded by the Tribunal together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit

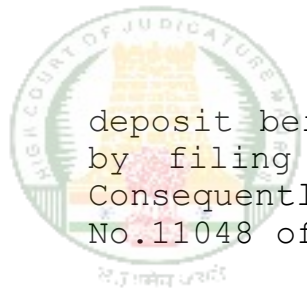


to the credit of M.C.O.P.Nos.864 and 865 of 2016 respectively on the file of the Motor Accident Claims Tribunal / Special District Judge, Trichy within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are entitled to withdraw the same, by filing necessary application before the Tribunal. The ratio of apportionment made by the Tribunal shall be kept intact. No costs. Consequently, connected Civil Miscellaneous Petitions C.M.P(MD)Nos.11042 and 11044 of 2021 are closed.

18. The Civil Miscellaneous Appeal in C.M.A(MD)No.1144 of 2021 is partly allowed. The quantum of compensation awarded by the Tribunal is reduced from Rs.8,98,280/- to Rs.7,68,280/-. The appellant/State Transport Corporation is directed to deposit the compensation amount i.e., Rs.7,68,280/- less the amount already deposited 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 MCOP.No.1208 of 2016 on the file of the Motor Accident Claims Tribunal / Special District Judge, Trichy within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the same, by filing necessary application before the Tribunal. No costs. Consequently, connected Civil Miscellaneous Petition C.M.P(MD) No.11045 of 2021 is closed.

19.The Civil Miscellaneous Appeal in C.M.A(MD)No.1145 of 2021 is dismissed. The quantum of compensation awarded by the Tribunal is enhanced from Rs.6,01,000/- to Rs.7,72,000/-. The appellant/State Transport Corporation is directed to deposit the compensation amount i.e., Rs.7,72,000/- less the amount already deposited 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 MCOP.No.866 of 2016 on the file of the Motor Accident Claims Tribunal / Special District Judge, Trichy within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are entitled to withdraw the same as per the order passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact. No costs. Consequently, connected Civil Miscellaneous Petition C.M.P(MD) No.11047 of 2021 is closed.

20.The Civil Miscellaneous Appeal in C.M.A(MD)No.1146 of 2021 is partly allowed. The quantum of compensation awarded by the Tribunal is reduced from Rs.1,00,750/- to Rs.69,750/-. The appellant/State Transport Corporation is directed to deposit the compensation amount i.e., Rs.69,750/- less the amount already deposited 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 MCOP.No.867 of 2016 on the file of the Motor Accident Claims Tribunal / Special District Judge, Trichy within a period of six weeks from the date of receipt of a copy of this order. On such



deposit being made, the claimant is entitled to withdraw the same, by filing necessary application before the Tribunal. No costs. Consequently, connected Civil Miscellaneous Petition C.M.P(MD) No.11048 of 2021 is closed.

21.The Civil Miscellaneous Appeal in C.M.A(MD)No.1147 of 2021 is dismissed. The quantum of compensation awarded by the Tribunal is enhanced from Rs.6,01,000/- to Rs.7,72,000/-. The appellant/State Transport Corporation is directed to deposit the compensation amount i.e., Rs.7,72,000/- less the amount already deposited 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 MCOP.No.1207 of 2016 on the file of the Motor Accident Claims Tribunal / Special District Judge, Trichy within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are entitled to withdraw the same as per the order passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact. No costs. Consequently, connected Civil Miscellaneous Petition C.M.P(MD) No.11049 of 2021 is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Motor Accidents Claims Tribunal/
Special District Judge, Trichy.
2. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

Judgment made in
C.M.A. (MD).Nos.1142, 1143, 1144, 1145, 1146 and 1147 of 2021
and
C.M.P. (MD)Nos.11042,11044,11045,11047,11048 and 11049 of 2021
21.12.2021

SJ(CO)

TR(22.03.2022) 8P 4C

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