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C.M.A.No.821 of 2020 and C.M.A.No.1367 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 22.09.2022

CORAM:

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**C.M.A.No.821 of 2020 and C.M.A.No.1367 of 2022**

**and**

**C.M.P.No.9917 of 2022**

**C.M.A.No.821 of 2020 :**

Manikandan

... Appellant/Petitioner

VS.

The Managing Director,  
Tamil Nadu State Transport Corporation Limited,  
No.12, Ramakrishna Road,  
Salem – 636 007.

... Respondent/Respondent

**C.M.A.No.1367 of 2022:**

The Managing Director,  
Tamil Nadu State Transport Corporation Limited,  
No.12, Ramakrishna Road,  
Salem – 636 007.

... Appellant/Respondent

Vs.

Manikandan

... Respondent/Petitioner



C.M.A.No.821 of 2020 and C.M.A.No.1367 of 2022

**Prayer in C.M.A.No.821 of 2020:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 21.08.2019 in M.C.O.P.No.117 of 2014 on the file of the learned Additional District Judge, Motor Accidents Claims Tribunal, Namakkal.

**Prayer in C.M.A.No.1367 of 2022:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 21.08.2019 in M.C.O.P.No.117 of 2014 on the file of the learned Additional District Judge, Motor Accidents Claims Tribunal, Namakkal.

For Appellant : Mr.D.Raghu  
in C.M.A.No.1367 of 2022

Mr.T.S.Arthanareeswaran  
in C.M.A.No.821 of 2020

For Respondent : Mr.T.S.Arthanareeswarar  
in C.M.A.No.1367 of 2022

Mr.D.Raghu  
in C.M.A.No.821 of 2020



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## **COMMON JUDGMENT**

The Transport Corporation has filed C.M.A.No.1367 of 2022 and the petitioner has filed C.M.A.No.821 of 2020 questioning the Award passed by the Additional District Judge, Motor Accidents Claims Tribunal, Namakkal, in M.C.O.P.No.117 of 2014 and seeking an enhancement. The parties are referred to in the same rank and array as before the Tribunal.

### **2.The facts in brief are as follows:**

The brother of the deceased Suresh is the petitioner. The petitioner had filed the above claim petition seeking compensation of a sum of Rs.10 lakhs for the death of the said Suresh in a road accident on 10.12.2012. It is his contention that on the said date, when the the said Suresh was riding Pillion in a TVS Star City bearing Registration No.TN 34E 9938 and proceeding on the Thiruchengode to Namakkal Main road from East to West, the respondent's bus bearing Registration



No.TN 30N 1047 coming in the opposite direction and driven by its driver in a rash and negligent manner had collided with the vehicle in which the said Suresh was travelling. As a result of which, he sustained grievous injuries and died on the way to the hospital. The petitioner who is the brother of the deceased would contend that the deceased, aged about 35 years at the time of the accident, was working as a Coolie and earning a monthly income of Rs.10,000/-.

3.The Transport Corporation had filed their counter contending that the vehicle in which the deceased was travelling was not adhering to the road rules and the rider of the motor cycle was riding his vehicle in a zigzag manner, as a result of which, the collision had taken place. They would contend that the accident had occurred only on account of the negligent driving by the rider of the two wheeler in which the deceased was travelling.



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4.The Tribunal by its Award dated 21.08.2019 was pleased to hold that the accident had occurred only on account of the rash and negligent driving of the driver of the respondent's bus and ultimately, the Tribunal had granted a compensation of a sum of Rs.9,03,600/-. The Tribunal had taken a notional income of Rs.6,500/- per month and taking into account the age of the deceased, added 40% towards future prospects and a multiplier of 16 was adopted. Thereafter, 50% was deducted towards personal expenses and ultimately, a sum of Rs.8,73,600/- was awarded under the head of loss of income and a sum of Rs.15,000/- each was awarded under the head of loss of estate and funeral expenses.

5.The learned counsel for the petitioner would submit that the notional income adopted by the Tribunal is very low and the appellant has proved that the deceased was a Coolie, earning a sum of Rs.10,000/- per month. The respondent/Transport Corporation has filed



the appeal challenging the Award of the Tribunal in fastening the liability only on the Transport Corporation totally overlooking the rash and negligent driving by the rider of the two wheeler in which the deceased was travelling pillion. They have also questioned the quantum of compensation as the petitioner is the brother of the deceased who is not his dependant.

6.Heard the learned counsels appearing on either side and perused the papers.

7.The Tribunal has taken into account the evidence of the eye witness and the First Information Report which clearly shows that the accident had occurred only on account of the negligence on the part of the driver of the respondent's bus. The respondent has not questioned the right of the petitioner to claim compensation but have only raised a doubt as to whether he is the only legal heir of the deceased Suresh. The petitioner has filed Ex.P.5 – Legal Heirship Certificate to show



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that he is the only legal heir of the deceased and further, the respondent has not let in any evidence to convert the same. Admittedly, the deceased was a Coolie and would have at least earned a sum of Rs.7,000/- per month. Therefore, the notional income is increased to a sum of Rs.7,000/- to which, 40% has to be added towards future prospects. The income would be a sum of Rs.9,800/- and the annual income would be a sum of Rs.1,17,600/-. Since the appellant is the bachelor 50% has to be deducted towards personal expenses. A sum of Rs.58,800/- would be the annual income contributed to the family. The deceased is aged over 35 years and the appropriate multiplier is 16. Therefore, the income would be a sum of Rs.9,40,800/- (Rs.58,800/- x 16 = Rs.9,40,800/-). In all other respects, the Award remains unaltered.

Therefore, the revised compensation would be as follows:

|                  |                |
|------------------|----------------|
| Loss of income   | :Rs.9,40,800/- |
| Loss of estate   | :Rs. 15,000/-  |
| Funeral expenses | :Rs. 15,000/-  |
|                  | -----          |
| Total            | -Rs.9,70,800/- |
|                  | -----          |



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8.Considering the fact that the quantum of compensation has been enhanced and the Transport Corporation's plea regarding negligence has been negated. C.M.A.No.1367 of 2022 filed by the Transport Corporation is dismissed and C.M.A.No.821 of 2020 filed by the claimant is allowed and enhanced as stated supra.

9.The Transport Corporation is directed to deposit the enhanced compensation amount of Rs.9,70,800/- with interest @ 7.5% per annum, less the statutory deposit already made, to the credit of M.C.O.P.No.117 of 2014 on the file of the learned Additional District Judge, Motor Accidents Claims Tribunal, Namakkal, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit, the petitioner is permitted to withdraw the amount with proportionate accrued interests and costs by making necessary applications.



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**WEB COPY** The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as the certified copy showing proof of payment of Court Fee has been produced by the claimant. No costs. Consequently, connected Miscellaneous Petition is closed.

**22.09.2022**

Index : Yes/No  
Internet : Yes/No  
Speaking order / Non speaking order  
mps

To

The Additional District Judge,  
Motor Accidents Claims Tribunal,  
Namakkal.



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**P.T. ASHA, J,**

mps

**C.M.A.No.821 of 2020 and**  
**C.M.A.No.1367 of 2022**  
**and**  
**C.M.P.No.9917 of 2022**

**22.09.2022**