



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 10.03.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN**

**C.M.A. (MD) Nos. 1123 of 2021 and 73 of 2022**

**and**

**C.M.P. (MD) No. 662 of 2022**

1. Arumugam

2. Prema

3. Jaya Chithra

... Appellants/Petitioners

in C.M.A. (MD) No. 1123 of 2021

Vs

Tamil Nadu State Transport Corporation,  
Kumbakonam Division,  
Through its Managing Director,  
Karaikudi Region, Manakiri Post,  
Karaikudi Taluk,  
Sivagangai District.

... Respondent in C.M.A.(MD) No.  
1123 of 2021/Respondent

Tamil Nadu State Transport Corporation,  
Kumbakonam Division,  
Through its Managing Director,  
Karaikudi Region, Manakiri Post,  
Karaikudi Taluk,  
Sivagangai District.

... Appellant in C.M.A. (MD) No. 73  
of 2022/ Respondent

Vs

1. Arumugam

2. Prema

3. Jaya Chithra

... Respondents / Claimants

in C.M.A. (MD) No. 73 of 2022

**COMMON PRAYER:** Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act praying this Court to set aside the judgment and decree made in M.C.O.P. No. 171 of 2019 by the Motor Accident Claims Tribunal, (Sessions Judge Fast Track Mahila Court, Sivagangai) dated 21.01.2021.

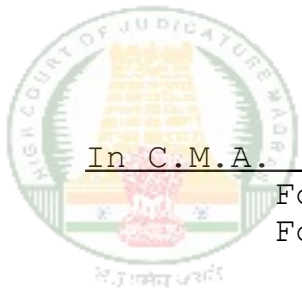
In C.M.A. (MD) No. 1123 of 2021:

For Appellants

: M/s.P.Selvakamatchi

For Respondent

: Mr.S.Madasamy



In C.M.A. (MD) No. 73 of 2022:

For Appellant : Mr.S.Madasamy  
For Respondents : M/s.P.Selvakamatchi  
for Mr.K.Gokul

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**C O M M O N J U D G M E N T**

The claimants are the appellants in C.M.A. (MD) No.1123 of 2021 and the Transport Corporation is the appellant in C.M.A.(MD) No. 73 of 2022. Challenging the award, dated 21.01.2021, made in M.C.O.P. No. 171 of 2019, on the file of the Motor Accident Claims Tribunal (Sessions Judge, Fast Track Mahila Court), Sivagangai, these Civil Miscellaneous Appeals are filed.

2. For the sake of convenience, the parties are referred as per their ranking in C.M.A. (MD) No. 1123 of 2021.

3. The brief facts relevant for the consideration of the above case, are that when the deceased Pandiyammal was walking on 11.06.2019, at about 10.40 a.m., along with her husband Arumugam near Vegetable Market of Neru Bazaar at Sivagangai for purchasing of vegetables in bulk, they decided to return through Mini Bus and for that purpose, they were walking towards Sri.Thurkkaiamman Kovil at Sivagangai Bus Stand from Western to Eastern side of the road. At that time, the driver of the bus bearing Registration No.TN-63-N-1570 belonging to the Tamil Nadu State Transport Corporation had driven the bus in a rash and negligent manner, as a result of which, caused grievous injuries to Pandiyammal and brought to Medical College Hospital, Sivangangai and died. Hence, the claim petition has been filed by the claimants in M.C.O.P. No. 171 of 2019.

4. On the side of the petitioners, one witness was examined as PW1 and 4 documens were marked as Exs.P1 to P4. On the side of the respondent, no oral or documentary evidence was adduced.

5. The Tribunal, after analysing the oral and documentary evidence available on record, awarded a compensation of Rs.9,31,800/- (Rupees Nine Lakhs Thirty One Thousand and Eight Hundred only) together with interest at the rate of 7.5% per annum and directed the respondent to pay the same to the petitioners.

6. Aggrieved against the said award passed by the Tribunal, the Civil Miscellaneous Petitions have been filed under Section 173 of the Motor Vehicles Act, 1988.

7. Heard both sides and perused the materials available on record.

8. The factum of the accident, the manner of the accident and the rash and negligence on the part of the driver of the offending vehicle, namely, Transport Corporation are not disputed by both the parties. Accordingly, the findings of the Tribunal, to that effect, are hereby confirmed.

9. According to the claimants, the award fixed by the Tribunal is very low and according to the Transport Corporation, the award fixed by the Tribunal is on the higher side.

10. Considering the documents filed before the Tribunal, the Tribunal has considered Ex.P2 - Postmortem Certificate and fixed the age of the deceased and also taken note of Ex.P4 - xerox copy of the charge sheet. Since the accident took place on 11.06.2019, the Tribunal has fixed Rs.300/- per day and accordingly, awarded a sum of Rs.9,000/- (Rupees Nine Thousand only) per month towards notional income.

11. Considering the fact that the accident occurred in the year 2019, I am inclined to refix the notional income at Rs.10,000/- (Rupees Ten Thousand only). As per the decision laid down by the Hon'ble Supreme Court of India in the case of **National Insurance Co. vs Pranay sethi** and others reported in **2017 (2) TNMAC 601**, 10% is added towards future prospectus of the claimants. As per the decision laid down by the Hon'ble Supreme Court of India in the case of **Sarlavarma and others vs. Delhi Transport Corporation and another** reported in **(2009) 6 SCC 121**, the multiplier 9 is adopted. The Tribunal has awarded a compensation for a sum of Rs.26,000/- (Rupees Twenty Six Thousand only) towards funeral expenses, which is very excessive and the same is reduced to Rs.15,000/- (Rupees Fifteen Thousand only). The Tribunal awarded a sum of Rs.40,000/- (Rupees Forty Thousand only) towards loss of consortium and the same is hereby confirmed. The Tribunal has awarded a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) towards love and affection, which is also very excessive and the same is reduced to Rs.80,000/- (Rupees Eighty Thousand only). The Tribunal has awarded a sum of Rs.3,000/- (Rupees Three Thousand only) towards loss of estate, which is very low and the same is enhanced to Rs.15,000/- (Rupees Fifteen Thousand only). The Tribunal has not awarded any compensation towards transportation and this Court awards a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards Transportation.

Calculation:

Notional Income = Rs.10,000/-

10% Future Prospects = Rs.1,000/-

Total = 10,000 + 1,000 = Rs.11,000/-

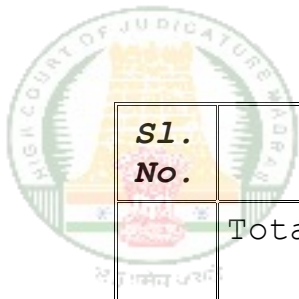
Loss of Income:

= Rs.11,000 x 12 x 9 x 2/3

= Rs.7,92,000/-

12. Accordingly, the award of the Tribunal in M.C.O.P. No. 171 of 2019 is modified as follows:

| <b>S1. No.</b> | <b>Particulars</b>     | <b>Amount granted by the Tribunal</b> | <b>Amount granted by this Court</b> |
|----------------|------------------------|---------------------------------------|-------------------------------------|
| 1.             | Loss of Income         | Rs.7,12,800/-                         | Rs.7,92,000/-                       |
| 2.             | Funeral Expenses       | Rs.26,000/-                           | Rs.15,000/-                         |
| 3.             | Love and Affection     | Rs.1,50,000/-                         | Rs.80,000/-                         |
| 4.             | Loss of Consortium     | Rs.40,000/-                           | Rs.40,000/-                         |
| 5.             | Loss of Estate         | Rs.3,000/-                            | Rs.15,000/-                         |
| 6.             | Transportation Charges | -----                                 | Rs.15,000/-                         |



| <b>Sl. No.</b> | <b>Particulars</b> | <b>Amount granted by the Tribunal</b> | <b>Amount granted by this Court</b> |
|----------------|--------------------|---------------------------------------|-------------------------------------|
|                | Total              | Rs.9,31,800/-                         | Rs. 9,57,000/-                      |

13. The compensation awarded by the Tribunal is enhanced from Rs.9,31,800/- (Rupees Nine Lakhs Thirty One Thousand and Eight Hundred only) to Rs.9,57,000/- (Nine Lakhs and Fifty Seven Thousand only) which shall carry interest at the rate of 7.5% per annum.

14. In the result,

(i) These Civil Miscellaneous Appeals are disposed of and the quantum of compensation awarded by the Tribunal is enhanced from Rs.9,31,800/- (Rupees Nine Lakhs Thirty One Thousand and Eight Hundred only) to Rs.9,57,000/- (Nine Lakhs and Fifty Seven Thousand only)

(ii) The Insurance Company is directed to deposit the entire compensation of Rs.9,57,000/- (Nine Lakhs and Fifty Seven Thousand only) (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till date of deposit to the credit of M.C.O.P. No. 171 of 2019, on the file of the Motor Accident Claims Tribunal (Sessions Judge, Fast Track Mahila Court), Sivagangai, within a period of eight weeks from the date of receipt of a copy of this judgment.

(iii) On such deposit being made, the claimants are permitted to withdraw the entire amount after following the due process of law.

(\*)

(iv) There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

**(\*) Deleted as per order of the Court dated 26/04/2022 made in CMA(MD) Nos.1123 of 2021 & 73 of 2022**

Assistant Registrar (CO)

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/ /2022  
Sub Assistant Registrar (CS)

vji

To

1.The Sessions Judge,  
Fast Track Mahila Court, Sivagangai.

2.The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



C.M.A. (MD) Nos. 1123 of 2021 and 73 of 2022

+1 CC to M/s.P.SELVAKAMATCHI, Advocate ( SR-11325[F] dated 10/03/2022 )

+2 CC to M/s.P.M.VISHNUVARTHANAN, Advocate ( SR-11695[F] & SR-11698[F] dated 11/03/2022 )

+1 CC to M/s.P.M. VISHNU VARTHANAN, Advocate ( SR-21389[F] dated 26/04/2022 )

**C.M.A. (MD) Nos. 1123 of 2021 and 73 of 2022  
and**

**C.M.P. (MD) No. 662 of 2022  
10.03.2022**

MGJ(11.05.2022) 5P 8C