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*C.M.A.No.1138 of 2016 and
Cross Objection No.16 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.06.2023

Coram:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

**C.M.A.No.1138 of 2016
and CMP.No.8597 of 2016
and Cross objection No.16 of 2023**

C.M.A.No.1138 of 2016:-

The Managing Director
Tamilnadu State Transport Corporation Ltd,
Thiruvannamalai Division

..Appellant

Vs.

1. Muniappan
2. Vimala

..Respondents

Cross Objection No.16 of 2023:-

1. Muniappan
2. Vimala

..Cross Objectors

Vs.

The Managing Director
Tamilnadu State Transport Corporation Ltd,
Thiruvannamalai Region, Thiruvannamalai.

..Respondent

Prayer: Civil Miscellaneous Appeal and Cross Objection filed against the judgment and decree dated 15.12.2014 passed in M.C.O.P.No.150 of 2014 by the learned Motor Accident Claims Tribunal (Incharge) and Chief Judicial Magistrate, Thiruvannamalai.



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In CMA.No.1138 of 2016:-

For appellant : Mr.S.S.Santhosakumar
For Respondents : Mrs.A.Subadra for M/s..M.Malar

In Cross Objection No.16 of 2023:-

For Cross Objectors : Mrs.A.Subadra for M/s..M.Malar
For Respondents : Mr.S.S.Santhosakumar

J U D G M E N T

Civil Miscellaneous Appeal No.1138 of 2016 has been filed by the respondent before the Tribunal viz., the Transport Corporation, against the judgment and decree dated 15.12.2014 passed in M.C.O.P.No.150 of 2014 by the Motor Accident Claims Tribunal (Incharge) and Chief Judicial Magistrate, Thiruvannamalai.

2 The petitioners/claimants in the above said M.C.O.P., have filed Cross Objection No.16 of 2023 seeking enhancement of the Award amount.

3 For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.



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4 The case of the claimants before the Tribunal as per their claim petition is that on 10.09.2013, at about 7.00 p.m., when the deceased Jegan was riding his relative's Motorcycle bearing Reg.No.TN 25 AF 6013 slowly and following the traffic rules from Melapur to Kanchi Village, the Government Bus bearing Reg.No.TN 32 N 2169, belonging to the respondent/Transport Corporation driven in a rash and negligent manner by its driver, dashed against the deceased Jegan causing death to him. According to the claimants, the accident took place only due to rash and negligent driving of the said Government Bus and in that circumstances, a sum of Rs.20,00,000/- was claimed as compensation.

5 On the other hand, refuting the contentions of the claimants, the respondent/Transport Corporation opposed the petitioners' claim by filing a detailed counter apart from disputing the negligence and liability.

6 To substantiate the claim before the Tribunal, the petitioners/claimants examined P.W.1 and P.W.2 and produced Exs.P1 to P3. On the other hand, the respondent/Transport Corporation examined the driver of the Bus as R.W.1 and did not produce any documentary evidence.



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7 After considering the available oral and documentary evidence, the Tribunal awarded compensation of Rs.7,11,000/- with interest at 7.5% p.a., from the date of petition till the date of deposit. The Tribunal categorically held that the accident occurred only due to rash and negligent driving of the driver of the respondent/Transport Corporation and also held that the Transport Corporation is liable to pay the compensation.

8 Aggrieved by the said conclusion arrived at by the Tribunal, the respondent/Transport Corporation has filed the present appeal stating that the Tribunal has wrongly fixed the liability on their driver and the Award passed by the Tribunal is highly excessive. However, the Petitioners/Claimants have filed their Cross Objection contending that the quantum arrived at by the Tribunal is on the lower side.

9 I have heard both the counsel and perused the materials available on record.

10 In the case on hand, the Tribunal has considered the oral evidence of P.W.2 who is an eye witness to the accident and also taken into consideration



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Ex.P.1-FIR, Ex.P2-Motor Vehicle Inspection Report and Ex.P.3-Post Mortem Certificate of the deceased and held that the respondent/Transport Corporation vehicle is responsible for the accident. Hence, by going through the available materials on record, this court is of the considered view that the conclusion arrived at by the Tribunal in fixing the negligence and liability on the part of the respondent/Transport Corporation is just and proper and the same needs no interference.

11 Therefore the appeal in C.M.A.No.1138 of 2016 filed by the Transport Corporation is hereby dismissed.

12 According to the claimants, at the time of the accident, their son Jegan was aged only 18 years and he was earning Rs.15,000/- p.m. as Mason. The respondent has not disputed the same and has not produced any contra evidence to disprove the same. Hence considering the cost of living prevailed on the date of accident, this Court fix the income of the deceased at Rs.8,000/- p.m. and loss of dependency is calculated as follows.

Actual income	=	Rs.8000/-
40% addition towards future prospects	=	(+)Rs.3,200/-
	=	Rs.11,200/-



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1/2 deduction towards personal expenses = (-) Rs.5,600/-

Loss of dependency = 5600 x 12 x 18 = Rs.12,09,600/-

13 In respect of awarding compensation under conventional heads and towards loss of love and affection, the Supreme Court and this court repeatedly held that a reasonable amount has to be awarded under those heads depends upon the case. Considering the decision of the Hon'ble Supreme Court in the case of *National Insurance Company Limited vs. Pranay Sethi and Others reported in (2017) 16 SCC 680* and the age of the deceased at the time of accident, this court is inclined to modify the compensation awarded by the Tribunal as under:-

Sl. No.	Head	Amount granted by the Tribunal Rs.	Amount granted by this Court Rs.
1	Loss of dependency	6,48,000.00	12,09,600.00
2	Loss of Love and Affection	50,000.00	80,000.00
3	Funeral expenses	10,000.00	15,000.00
4	Transportation to Hospital	3,000.00	-
5	Loss of Estate	-	15,000.00
	Total	7,11,000.00	13,19,600.00



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14 In the result, the Civil Miscellaneous Appeal is dismissed and the

Cross Objection filed by the claimants is allowed as follows:-

- (1) The award granted by the Tribunal is enhanced to Rs.13,19,600/-
- (2) The interest granted by the Tribunal at 7.5% per annum is confirmed.
- (3) The appellant/Transport Corporation is directed to deposit the enhanced award amount as ordered by this court, less the amount already deposited, if any, within a period of two months from the date of receipt of a copy of this order.
- (4) The apportionment fixed by the Tribunal is confirmed.
- (5) The claimants are hereby directed to pay the requisite court fee for the enhanced award as ordered by this Court on 28.07.2021 while entertaining the Cross Objection.
- (5) There will be no order as to costs in this appeal.
- (6) Consequently, connected miscellaneous petition is closed.

23.06.2023

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

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To

1. The Motor Accident Claims Tribunal (Incharge)
and Chief Judicial Magistrate, Thiruvannamalai.
2. The Section Officer, V.R.Section, High Court, Madras.



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A.A.NAKKIRAN, J.

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