



Civil Miscellaneous Appeal Nos.1790 of 2023 & 550 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 02.04.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Civil Miscellaneous Appeal Nos.1790 of 2023 & 550 of 2024**  
**and**  
**C.M.P.No.17559 of 2023 in C.M.A.No.1790 of 2023**

The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.  
Salem Division I,  
12, Ramakrishna Road,  
Salem - 7.

... Appellant in C.M.A.No.1790/2023  
& respondent in C.M.A.No.550/2024

Vs.

1.Rosemary  
W/o. (Late) Ranganathan

2.Stalin  
S/o. (Late) Ranganathan ... Respondents in C.M.A.No.1790/2023  
& appellants in C.M.A.No.550/2024

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.2560 of 2015 by the Motor Accident Claims Tribunal, Principal District Court, Cuddalore, dated 30.06.2022.



Civil Miscellaneous Appeal Nos.1790 of 2023 & 550 of 2024

For Appellant in C.M.A.No.1790/2023  
& respondent in C.M.A.No.550/2024 : Mr.D.Nitin

For Respondents in C.M.A.No.1790/2023  
& appellants in C.M.A.No.550/2024 : Ms.V.Ramya Rao

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### **COMMON JUDGMENT**

Both these appeals can be taken up together since the issue involved is common and hence, this common judgment is passed.

2. The case of the claimants is that on 18.06.2015 at about 01.10 a.m. the deceased Prakash was travelling in a two-wheeler as a pillion rider, which was driven by his brother, who is the second appellant in C.M.A.No.550 of 2024. At that point of time, the offending vehicle belonging to the transport corporation was driven in a rash and negligent manner and it dashed on the two-wheeler and as a result, the deceased was thrown out of the vehicle and he sustained grievous injuries. Unfortunately, the deceased succumbed to the injuries. It is under these circumstances, the claimants who are the mother and the elder brother of the deceased have filed the claim petition in M.C.O.P.No.2560 of 2015 before the Motor Accident Claims Tribunal, Cuddalore.



Civil Miscellaneous Appeal Nos.1790 of 2023 & 550 of 2024

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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident has occurred only due to the rash and negligent driving on the part of the driver belonging to the transport corporation. While deciding the compensation under various heads, the Tribunal came to a conclusion that the following compensation can be awarded:

| Sl.No. | Compensation awarded under the head | Amount (in Rs.)    |
|--------|-------------------------------------|--------------------|
| 1.     | Loss of Income                      | 12,54,400/-        |
| 2.     | Loss of love and affection          | 10,000/-           |
| 3.     | Funeral expenses                    | 15,000/-           |
| 4.     | Loss of Estate                      | 15,000/-           |
|        | <b>Total</b>                        | <b>12,94,400/-</b> |

The amount of Rs.12,94,400/- was rounded off to Rs.12,95,000/- along with interest at 8% p.a.

4. The claimants have filed the appeal in C.M.A.No.550 of 2024 mainly on the ground that the Tribunal had taken a lesser amount towards the notional income of the deceased, who, at the relevant point of time was working as a painter.

5. The transport corporation has filed the appeal in



Civil Miscellaneous Appeal Nos.1790 of 2023 & 550 of 2024

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C.M.A.No.1790 of 2023 mainly on the ground that the tribunal instead of deducting 1/2 of the income towards personal expenditure of the deceased, went wrong in only deducting 1/3.

6. Since both the appeals arise out of the same accident and single award passed by the tribunal, both the appeals are taken up together by this Court.

7. Heard Mr.D.Nitin, learned counsel for transport corporation and Ms.V.Ramya Rao, learned counsel for claimants.

8. This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the award that was passed by the tribunal and the reasons assigned therein.

9. The main ground on which this Court wants to tinker with the compensation that was awarded by the tribunal is with regard to the fixation of notional income of the deceased at Rs.7,000/-. Admittedly, the



deceased was working as a painter and at the time of his demise, he was aged about 30 years. This accident had taken place in the year 2015. Considering the cost of living during the relevant point of time, this Court was consistently fixing the notional income between Rs.9,000/- and Rs.10,000/-. Hence, the same notional income can be fixed for the deceased also. If this Court fixes Rs.10,000/- p.m. as the notional income of the deceased, adding future prospects at the rate of 40%, the total income of the deceased can be fixed at Rs.14,000/-.

10. In the instant case, the actual claimant who is entitled for payment of compensation will be the mother since the second appellant in C.M.A.No.550 of 2024, who is the elder brother of the deceased cannot make any claim for compensation. Under such circumstances, this Court has been consistently holding that 50% must be deducted towards the personal expenditure of the deceased. If the same is applied, out of the total monthly income of Rs.14,000/-, Rs.7,000/- can be taken into consideration for the purpose of determining the loss of income.

11. It is also seen that the deceased died at the age of 30 years



Civil Miscellaneous Appeal Nos.1790 of 2023 & 550 of 2024

leaving behind the mother and his elder brother. However, the tribunal has fixed only a sum of Rs.10,000/- towards love and affection. The same must also be enhanced to Rs.40,000/- each for the claimants. Accordingly, the compensation under this head must be enhanced from Rs.10,000/- to Rs.80,000/-.

12. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

| Sl. No. | Compensation awarded under the head                                                                                      | Amount (in Rs.)    |
|---------|--------------------------------------------------------------------------------------------------------------------------|--------------------|
| 1.      | Loss of Income<br>[Rs.14,000*12*16 = Rs.26,88,000/-]<br>After deducting 1/2 towards personal expenditure of the deceased | 13,44,000/-        |
| 2.      | Loss of love and affection                                                                                               | 80,000/-           |
| 3.      | Funeral expenses                                                                                                         | 15,000/-           |
| 4.      | Loss of Estate                                                                                                           | 15,000/-           |
|         | <b>Total</b>                                                                                                             | <b>14,54,000/-</b> |

13. The compensation awarded by the tribunal at Rs.12,95,000/- is enhanced to Rs.14,54,000/-. The above compensation shall be paid together with interest at 7.5% p.a. (instead of 8% that was fixed by the tribunal). The transport corporation is directed to deposit the enhanced



Civil Miscellaneous Appeal Nos.1790 of 2023 & 550 of 2024

compensation of Rs.14,54,000/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.1,59,000/- is concerned, the claimants will not be entitled for interest for the period of delay of 342 days in filing the appeal in C.M.A.No.550 of 2024, which was made abundantly clear when the petition in C.M.P.No.21191 of 2023 seeking condonation of delay was allowed by order dated 21.02.2024. The other directions issued by the tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, both the appeals are disposed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

**02.04.2024**

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,  
Principal District Court, Cuddalore.

**N.ANAND VENKATESH, J.**



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Civil Miscellaneous Appeal Nos.1790 of 2023 & 550 of 2024

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