



CMA.No.703 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.703 of 2023

1. C.Deepa
2. C.Chandrasekaran
3. C.Arthi (Minor)
(Minor represented by her mother
and next friend C.Deepa)

... Appellants

vs.

1. Thota Satish Babu

2. The United India Insurance Company Ltd.,
Motor Third Party Cell, Regional Office,
No.134, Greams Road,
Chennai - 600 006.

3. The Managing Director,
Metro Transport Corporation Limited,
Pallavan Salai,
Chennai - 600 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 10.06.2022 in M.C.O.P.5875/2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.2, Court of Small Causes, Chennai.

For Appellants	: Mr.S.Sankaralingam
For R2	: Mr.S.Arun Kumar
For R3	: Mr.Anton Dhanasekaran

J U D G M E N T



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The appellants are the claimants in M.C.O.P.5875/2016 on the file of the Motor Accident Claims Tribunal, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of M.A.C.T. Rules, seeking compensation of Rs.30,00,000/- for the death of one Ajay Kumar (son of the claimants 1 and 2 and brother of the 3rd claimant) in a road accident which happened on 23.01.2016.

2. The brief case of the appellants / claimants is as follows :

On 23.01.2016, Ajay Kumar (deceased) was riding his two wheeler bearing Registration number TN-12-J-2673 on C.T.H Road, Pattabiram. When he was nearing Ramasamy Nadar Thirumana Mandabam, a bus bearing Registration number TN-01-N-9079 belonging to the 3rd respondent, Metro Transport Corporation Limited, was parked on the left hand side of the road without any signal, as a result of which, the two wheeler driven by Ajay Kumar (deceased) hit the bus from behind and Ajay Kumar was thrown out of the vehicle. At that time, a lorry bearing Registration number AP-07-Y-5888 came in a rash and negligent manner and ran over Ajay Kumar, resulting in his instantaneous death.

3. According to the claimants, the negligent parking of the bus bearing Registration number No. TN-01-N-9079 along the road side and



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the rash and negligent driving of the driver of the lorry bearing Registration number AP-07-Y-5888 were the cause of the accident. Since the bus belongs to the third respondent and the lorry was insured with the second respondent, the United India Insurance Company Limited, the Metro Transport Corporation Limited, the owner and the insurer of Lorry are jointly and severally liable to pay compensation to them.

4. The Tribunal, after analysing the evidence on record, fastened composite negligence on the part of the driver of the bus bearing Registration number TN-01-N-9079 and the driver of the Lorry bearing Registration number AP-07-Y-5888 insured with the 2nd Respondent, in the ratio 50:50 and directed the Metro Transport Corporation Limited and the United India Insurance Corporation Limited to pay compensation of Rs.23,78,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation in the ratio 50:50, vide, its orders dated 10.06.2022.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act.



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6. Heard Mr.S.Sankaralingam, learned counsel for the appellants and Mr.S.Arun Kumar, learned counsel appearing for the second respondent and Mr.Anton Dhanasekaran, learned counsel for the third respondent.

7. Mr.S.Sankaralingam, learned counsel appearing for the appellants contended that Ajay Kumar (deceased), aged 19 years, was a student, studying B.E. Automobile Engineering in Sriram Engineering College, Tiruvallur and the Tribunal had fixed a very meagre sum of Rs.15,000/- as his monthly notional income. He, therefore prayed for enhancing the income of the deceased.

8. Per contra, Mr.S.Arun Kumar, learned counsel appearing for the second respondent contended that the Award passed by the Tribunal is based on well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

9. It is pertinent to point out that the accident took place in the



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year 2016 and in the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.16,000/- would meet the ends of justice. As per the decision of the Supreme Court of India in *National Insurance Co. vs Pranay sethi and others* reported in **2017 (2) TNMAC 601**, 40% is added towards future prospects of the deceased. The deceased died as a bachelor and hence, 50% is deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 18 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in **(2009) 6 SCC 121**.

Calculation :

Notional Income = Rs.16,000/-

after adding 40% Future Prospects = Rs.22,400/-

After 1/2 deduction = Rs.11,200/-

Loss of dependency :

= Rs.11,200/- x 12 x 18

= Rs.24,19,200/-

In addition to that the claimants are entitled to Rs.1,20,000/- (40,000/-x3), Rs.15,000/- and Rs.15,000/- towards Loss of Consortium, Loss of Estate,



and Funeral Expenses respectively as per the decision in ***National Insurance Co. vs Pranay sethi and others*** (cited supra). Thus, the claimants are entitled to a total compensation of Rs.25,69,200/- (24,19,200 + 1,20,000 + 15,000 + 15,000 = 25,69,200) as shown in the following tabular column:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.24,19,200 /-
2.	Loss of consortium (Rs.40,000/- x 3)	Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.25,69,200/-

10. Thus, the compensation awarded by the Tribunal is enhanced to Rs.25,69,200/- which would carry interest at the rate of 7.5% per annum.

11. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.23,78,000/- to Rs.25,69,200/-.
- iii. The appellants / claimants are directed to pay court fee for the enhanced compensation amount, if any, within a period of four



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weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

iv. The second respondent / the United India Insurance Company Limited and the third respondent / Metro Transport Corporation Limited are directed to deposit the enhanced compensation amount i.e., Rs.25,69,200/- (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 in the ratio 50:50 within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.5875/2016 on the file of the Motor Accident Claims Tribunal, Special Sub Judge.II, Small Causes Court, Chennai.

v. On such deposit being made, the appellants / claimants are at liberty to withdraw their respective shares as shown below after following due process of law:

1st Appellant / Mother	= Rs.10,00,000/- (with interest and costs)
2nd Appellant / Father	= Rs.10,00,000/-
3rd appellant / sister	= Rs.5,69,200/-



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vi. The share of the minor appellant is directed to be deposited in any
one of the Nationalised Bank till she attain majority.

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Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
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To

- 1.The Motor Accident Claims Tribunal
Special Sub Judge.II,
Small Causes Court, Chennai
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.

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