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CMA.No.582 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.582 of 2023

1. Kaththavarayan
2. K. Manikkavalli
3. K. Muthukrushnan
4. K. Rajasekar

... Appellants

vs.

The Managing Director
Tamil Nadu State Government Transport
Corporation (VPM) Limited
No.3/137, Salamedu, Vazhuthareddy and post,
Villupuram Taluk 605 401

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against Award dated 02.12.2022 passed in M.C.O.P.474/2019 on the file of the Motor Accident Claims Tribunal, Principal District Court, Perambalur.

For Appellants : Mrs. C. Sangamithirai
for M/s. C. Vidhusan

For Respondent : Mr. C.R. Suresh Kumar



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J U D G M E N T

The appellants are the claimants in M.C.O.P.474/2019 on the file of the Motor Accident Claims Tribunal, Principal District Court, Perambalur, and they filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.30,00,000/- for the death of one Rajadurai (son of the claimants 1 and 2 and brother of the claimants 3 and 4) in a road accident that occurred on 17.04.2019.

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

2.1. On 17.04.2019 Rajadurai (since deceased) was waiting to cross the road with his two wheeler on Chennai-Trichy National Highway 45 and at about 07.30 p.m. a bus bearing Registration Number TN-32-N-3935, belonging to the first respondent, hit the two wheeler as a result of which he sustained injuries all over his body. He was immediately rushed to Government Hospital, Perambalur and subsequently he was admitted as an inpatient in SRM Hospital, Irungalur.



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However, he succumbed to injuries on 29.04.2019.

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3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN-32-N-3935 belonging to the State Transport Corporation was the cause of the accident and therefore they are liable to pay compensation to them.

4. The respondent State Transport Corporation resisted the claim petition by filing its counter.

5. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the offending bus bearing Registration Number TN-45-BF-8985 and on the deceased in the ratio 50:50 and directed the respondent State Transport Corporation to pay compensation of 13,52,588/- (50% of the total compensation of Rs.27,05,175/-) to the appellants/claimants together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation.

6. Aggrieved over the quantum of compensation and



challenging fastening of negligence on the part of the deceased, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mrs.C. Sangamithirai, learned counsel appearing for the appellants and Mr.C.R. Suresh Kumar, learned counsel for the respondent Transport Corporation.

8. Mrs.C. Sangamithirai, learned counsel appearing for the appellants contended that the Tribunal had wrongly fastened negligence on the part of the deceased to an extent of 50% even though the driver of the bus was responsible for the accident. It is also her contention that the Tribunal has not awarded just compensation to the claimants.

9. Per contra, Mr.C.R. Suresh Kumar, learned counsel appearing for the respondent/Transport Corporation contended that the the Tribunal after analysing the evidence on record, fastened 50% negligence on the part of the deceased and therefore, the same need not be disturbed in the present appeal.



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10. A perusal of the records shows that the accident took place on Chennai-Trichy National highways. The bus was proceeding towards southern direction from northern side. The scene of occurrence is on the western side of the road as per the rough sketch (Ex.R2). It is not disputed that Chennai-Trichy National Highway is a four way lane. The deceased was crossing the road from east to west. Since the accident spot is shown on the western side of the road, fixing negligence on the part of the rider of the two wheeler and the bus in the ratio 50:50 by the Tribunal cannot be found fault with.

10.1. According to the claimants, the deceased was aged 22 years then and was working as a Chemical Engineer for SIDCO Medical Unit, Perambalur, earning a sum of Rs.20,000/- per month. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.14,562.01 based on the cost inflation index for the year 2015-2016. The accident took place in the year 2019 and the deceased was aged 22 years on the date of accident. In the circumstances,



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this Court is of the view that fixing the notional income as Rs.15,000/- per month 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. Since the deceased died as a bachelor, 1/2 should be 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.15,000/-

40% Future Prospects = Rs.21,000/-

After 1/2 deduction = Rs.10,500/-

Loss of dependency

= Rs.10,500/- x 12 x 18

= Rs.22,68,000/-

In addition to that the claimants are entitled to a sum of Rs.3,93,379/- towards Medical bills and Rs.1,60,000/- (40,000 x 4), Rs.15,000/- and Rs.15,000/- for 'loss of Consortium', 'loss of Estate' and 'funeral Expenses'



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respectively as per the decision in *National Insurance Co. vs Pranay sethi and others* (cited supra).

10.2 The enhanced amount under the different heads are detailed hereunder:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	22,68,000/-
2.	Medical bills	3,93,379/-
2.	Loss of consortium (Rs.40,000/- x 4)	1,60,000/-
3.	Funeral expenses	15,000/-
4.	Loss of Estate	15,000/-
	Total	28,51,379/-
	Less 50% contributory negligence	14,25,689.50/-
	Compensation amount	14,25,689.50/- Rounded off to 14,25,690/-

This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.



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11. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The orders passed by the Tribunal fixing contributory negligence on the part of the deceased to an extent of 50% is confirmed.
- iii. The compensation awarded by the Tribunal is enhanced from Rs.13,52,588/- to Rs.14,25,690/-.
- iv. The appellants / claimants are directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.
- v. The respondent, the Tamil Nadu State Government Transport Corporation (VPM) Limited, Villupuram is directed to deposit the enhanced compensation amount of Rs.14,25,690/- (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 to the credit of MCOP.474 of 2019 on the file of the Motor Accident



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Claims Tribunal, Principal District Court, Perambalur, within a period of four weeks from the date of receipt of a copy of this order. The ratio of apportionment made by the Tribunal shall be kept intact.

vi. On such deposit being made, the appellants/claimants are at liberty to withdraw their share as per the apportionment made by the Tribunal, after filing a proper petition for withdrawal.

11.09.2024

Index : Yes/No
Speaking/Non-speaking order
bga

To

1. Motor Accident Claims Tribunal, Principal District Court, Perambalur
2. The Managing Director
Tamil Nadu State Government Transport
Corporation (VPM) Limited
No.3/137, Salamedu, Vazhuthareddy and post,
Villupuram Taluk 605 401
3. The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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