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CMA.No.666 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.666 of 2023

1. Deepa

2. Minor. Manjuparkavi

3. Minor. Naveensolai
(minors represented by their mother and
natural guardian Deepa, first appellant)

Sundarammal (since died)

... Appellants

vs.

Managing Director,
Tamil Nadu Government Transport Corporation Limited,
Ramakrishna Road, Salem.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 23.09.2016 in M.C.O.P. 174 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai.

For Appellants : Ms.A.Subadra

For Respondent : Mr.D.Nitin



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J U D G M E N T

The appellants are the claimants in M.C.O.P. 174 of 2016 on the file of the Motor Accident Claims Tribunal, Thiruvannamalai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.20,00,000/- for the death of one Sivakumar (wife of claimant 1 ; father of claimants 2 and 3 ; son of claimant 4), in a road accident that occurred on 29.08.2010.

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

On 29.08.2010, Sivakumar (since deceased) was travelling as a passenger in a bus bearing Registration Number TN-29-N-1813 belonging to the respondent and the driver of the bus drove the bus in a rash and negligent manner, as a result of which, Sivakumar (deceased) was thrown out of the bus and died on the spot.

3. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the respondent, the Tamil Nadu Government Transport Corporation Limited, Salem, was the cause of the accident and therefore, the respondent is liable to pay compensation to



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them.

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4. The respondent resisted the claim petition by filing a counter.

5. The Tribunal after analysing the evidence on record, fastened negligence on the part of the driver of the bus and awarded compensation of Rs.10,82,184/- to the appellants (claimants) together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 23.09.2016.

6. 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, 1988.

7. Heard Ms.A.Subadra, learned counsel appearing for the appellants and Mr.D.Nitin, learned counsel appearing for the respondent.

8. Ms.A.Subadra, learned counsel appearing for the appellants



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contended that that the deceased was aged 40 years and was a conductor in Tamil Nadu State Transport Corporation Limited earning a sum of Rs.15,000/- per month. However, the Tribunal fixed the notional monthly income of the deceased only as Rs.4,500/-. She therefore, prayed for the enhancement of notional monthly income of the deceased.

9. *Per contra* Mr.D.Nitin, learned counsel appearing for the respondent, contended that the Award passed by the Tribunal is based on the 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.

10. In the claim petition, it is contended that the deceased was a conductor in Tamil Nadu State Transport Corporation Limited earning a sum of Rs.15,000/- per month. In the absence of satisfactory proof, as to his employment in TNSTC and income, the Tribunal fixed the notional monthly income of the deceased as Rs.4,500/-. Considering the age of the deceased and the year of accident, a sum of Rs.7,000/- is fixed as notional monthly income of the deceased. As per the decision of the Supreme Court of India in *National Insurance Co. vs Pranay sethi and others* reported



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in **2017 (2) TNMAC 601**, 25% is added towards future prospects of the deceased. Since there are four dependents, 1/4th of the deceased's income should be deducted towards his personal expenses. The deceased was aged 41 years on the date of accident and the proper multiplier to be adopted in the instant case is 14 as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another*** reported in **(2009) 6 SCC 121**.

Calculation

Notional Monthly Income = Rs.7,000/-

25% Future Prospects = Rs.8,750/-

After 1/4 deduction = Rs.6,563/-

Loss of dependency

= Rs.6,563/- x 12 x 14

= Rs.11,02,584/-

In addition to that the claimants are entitled to 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' 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.12,92,584/- (11,02,584 + 1,60,000



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+ 15,000 + 15,000= 12,92,584) as shown in the following tabular column.

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<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.11,02,584/-
2.	Loss of consortium (Rs.40,000/- x 4)	Rs.1,60,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.12,92,584/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.12,92,584/- that would carry interest at the rate of 7.5% per annum.

12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.12,92,584/-.
- iii. The appellants / claimants are directed to pay the 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 respondent, the Tamil Nadu Government Transport Corporation Limited, Salem, is directed to deposit the enhanced compensation amount i.e., Rs.12,92,584/- (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 within a period of four weeks from the date of receipt of a copy of this order to the credit of M.C.O.P. 174 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai.

v. Apportionment :

1st claimant / Wife	Rs.3,92,584/- (with interest and costs)
2nd claimant / Son (Minor)	Rs.3,00,000/-
3rd claimant / Daughter (Minor)	Rs.6,00,000/-

vi. The compensation amount of the minor claimants 2 and 3 shall be deposited in any one of the Nationalised Bank till they attain



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majority. The first claimant is at liberty to withdraw her share after following due process of law.

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vii.The appellants / claimants are not entitled to claim interest for the period of delay of 1911 days in filing this appeal.

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



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To

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1.The Motor Accidents Claims Tribunal,
II Small Causes Court, Chennai.

2. Managing Director,
Tamil Nadu Government Transport Corporation Limited,
Ramakrishna Road, Salem.

3.The Section Officer, VR Section, Madras High Court, Chennai.

R.HEMALATHA, J.



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