



CMA.No.1078 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1078 of 2023 & C.M.P. No.10274 of 2023

&

Cros. Obj. No.44 of 2023

C.M.A. No.1078 of 2023

The District Registrar,
Salem East,
Residing at 27C, Ramasundaram Street,
Salem District.

... Appellant

VS.

1. Latha
2. Minor.Prabhas
3. Vijaya
4. Rajendran

... Respondents

CROS. OBJ. NO.44 of 2023

1. Latha
2. Minor.Prabhas
3. Vijaya

... Cross Objectors

Vs.

The District Registrar,
Salem East,



CMA.No.1078 of 2023

Residing at 27C, Ramasundaram Street,
Salem District.

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2. Rajendran

... Respondents

PRAYER in C.M.A. No.1078 of 2023: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 04.03.2023 in M.C.O.P.No.196 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

PRAYER in CROS.OBJ. No.44 of 2023

Cross objection filed under Order 41 Rule 22 of the Code of Civil Procedure against the Award dated 04.03.2023 in M.C.O.P.No.196 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

Appearance In C.M.A. No.1078 of 2023

For Appellant : Mr.B.Tamil Nidhi
Government Advocate

For R1 to R3 : Mr.S.P.Yuaraj

Appearance in Cros. Obj. No. 44 of 2023

For Cross Objectors : Mr.S.P.Yuaraj
For R1 : Mr.B.Tamil Nidhi
Government Advocate



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COMMON JUDGMENT

The appellant in CMA No.1078 of 2023 is the District Registrar, Salem, while the Cross Objectors in Cros. Obj. No. 44 of 2023 are the claimants in M.C.O.P.196 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

2. The Cross Objectors / claimants filed the claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.40,00,000/- for the death of one Sudharsan (husband of first claimant, father of second claimant and son of third claimant), in a road accident that took place on 07.08.2020.

3. The case of the claimants in a nutshell is as follows:

3.1. On 07.08.2020, at about 6.10 p.m, Sudharsan (deceased) was riding his two wheeler bearing Registration Number TN-77-L-7885 on Chennai – Salem Main Road. When he was nearing Udaiyapatti, a jeep bearing Registration Number TN-54-G-0028, belonging to the office of the District Registrar, Salem, hit the two wheeler, as a result of which,



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Sudharsan fell down and sustained injuries all over his body. He was immediately rushed to the Government Hospital, Salem. However he succumbed to injuries on the same day.

3.2. According to the claimants the rash and negligent driving of the driver of the jeep bearing Registration Number TN-54-G-0028 was the cause of the accident and therefore, the District Registrar, Salem, is liable to pay compensation to them.

4. The District Registrar, Salem, and the driver of the jeep filed their counter and contested the claim petition.

5. The Tribunal after analysing the evidence on record fixed negligence on the part of the driver of the jeep bearing Registration Number TN-54-G-0028 and awarded compensation of Rs.12,13,000/- to the 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 04.03.2023.



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6. Questioning the quantum of compensation awarded by the Tribunal, the District Registrar, Salem has filed CMA No.1078 of 2023, and the claimants filed Cross Obj. No.44 of 2023 seeking enhancement of compensation.

7. Heard Mr.B.Tamil Nidhi, learned Government Advocate appearing for the appellant in C.M.A. No.1078 of 2023 and Mr.S.P.Yuaraj, learned counsel for the respondents 1 to 3.

8. It is seen from the records that the deceased was working in a Garment Company at Tiruppur. According to the claimants, he was earning a sum of Rs.25,000/- per month. In the absence of income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.8,000/-. It is pertinent to point out that the accident took place in the year 2020 and in the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.15,000/- 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.



Since there are three dependants $1/3^{\text{rd}}$ is deducted towards his personal expenses. The deceased was aged 29 years on the date of accident and the proper multiplier to be adopted in the instant case is 17 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 $1/3$ deduction = Rs.14,000/-

Loss of dependency

= Rs.11,200/- x 12 x 17

= Rs.28,56,000/-

In addition to that the claimants are entitled to Rs.40,000/-, 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.29,26,000/- (28,56,000 + 40,000 + 15,000 + 15,000= 29,26,000) 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.28,56,000/-
2.	Loss of consortium (Rs.40,000/- x 2)	Rs.40,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.29,26,000/-

9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.12,13,000/- to Rs.29,26,000/- which would carry interest at the rate of 7.5% per annum.

10. It is seen from the records that the first claimant got separated from the deceased three or four months prior to the date of the accident. Her evidence, in fact, shows that she has married another man and out of the said wedlock she has a child aged two years. Therefore, her share in the total compensation is fixed as Rs.2,00,000/-. A sum of Rs.20,00,000/- shall be deposited in the name of the minor child Prabhas until he attains the age of majority in any one of the nationalized bank in India. The balance amount of Rs.7,26,000/- with costs and interest shall be given to the third claimant who is taking care of the minor child.



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11. In the result,

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i. The appeal in C.M.A. No.1078 of 2023 is dismissed and the Cross Objection No.44 of 2023 is partly allowed. No costs. Consequently connected civil miscellaneous petition is closed.

ii. The compensation awarded by the Tribunal is enhanced from Rs.12,13,000/- to Rs.29,26,000/-.

iii. The appellant, the District Registrar, Salem, in C.M.A. No. 1078 of 2023 is directed to deposit the compensation amount i.e., Rs.29,26,000/- (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.No.196 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

iv. Out of the deposited amount the claimants 1 to 3 are entitled to the compensation amount as apportioned below:



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(a) Rs.2,00,000/- to the first claimant (Latha), wife of the deceased.

(b) Rs.20,00,000/- to the 2nd claimant (Minor. Prabhas). Since in the claim petition, his age is mentioned as 5 years on the date of accident, his share of compensation amount is ordered to be deposited in any one of the nationalized bank in India until he attains the age of majority.

(c) Rs.7,26,000/- with costs and interest to the third claimant (Vijaya), mother of the deceased.

v. On such deposit being made by the appellant / District Registrar, Salem, the claimants 1 and 3 are at liberty to withdraw the compensation amount as apportioned above, after following due process of law.

22.08.2024

Index : Yes/No

Speaking/Non-speaking order
mtl

9/11



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To

1. The Motor Accident Claims Tribunal, Special District Court, Salem.
2. The Section Officer, V.R. Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

mtl

C.M.A.No.1078 of 2023 & C.M.P. No.10274 of 2023
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