



CMA.No.1924 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1924 of 2021

1.S.Pazhani

2.Minor. P.Vairavel

3.Minor. P.Sivaprakash

4.Minor. P.Chitrarasan

5.Minor. P.Pavithra

6.Minor. P.Sivanraj

(minor appellants are represented

by their father and natural guardian S.Pazhani)

... Appellants

vs.

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division - I) Limited,
Cuddalore Region, Imperial Road,
Cuddalore - 607 002.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 14.12.2020 in M.C.O.P.152 of 2020 on the file of the Motor Accident Claims Tribunal, I Additional District and Sessions Court, Cuddalore.



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For Appellants : Ms.Ramya V.Rao

For Respondent : Mr.S.Santhosh Kumar

J U D G M E N T

The appellants are the claimants in M.C.O.P.152 of 2020 on the file of the Motor Accident Claims Tribunal, Cuddalore. They filed the claim petition under Section 166(1) of the Motor Vehicles Act, 1988 seeking compensation of Rs.40,00,000/- for the death of one Chitra, (wife of claimant 1 ; mother of claimants 2 to 6) in a road accident that took place on 09.10.2019.

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

On 09.10.2019, Chitra (since deceased) was walking along Cuddalore – Trichy National Highways Road and when she was nearing Thambipettai Kesavanarayanan Junction, a bus bearing Registration Number TN-32-N-3951 belonging to the appellant, the Tamil Nadu State Transport Corporation Limited, hit her, as a result of which, she sustained injuries all over her body. She was immediately rushed to Government Hospital, Kurinjipadi, from where she was referred to Jipmer Hospital,



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Puducherry. However, she succumbed to injuries on 13.10.2019.

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3. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration Number TN-32-N-3951 belonging to the Tamil Nadu State Transport Corporation (Villupuram Division - I) Limited was the cause of accident and therefore, they are liable to pay compensation to them.

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

5. The Tribunal vide its orders dated 14.12.2020, fastened negligence on the part of the driver of the bus bearing Registration Number TN-32-N-3951 and awarded compensation of Rs.14,20,240/- to the claimants together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation.



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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.Ramya V.Rao, learned counsel appearing for the appellants and Mr.S.Santhosh Kumar, learned counsel appearing for the respondent.

8. Ms.Ramya V.Rao, learned counsel appearing for the appellants would contend that the deceased was a daily wager earning a sum of Rs.15,000/- per month. However, the Tribunal fixed the notional monthly income of the deceased only as Rs.6,000/-, which, according to her, is very meagre. She therefore, prayed for enhancement of compensation.

9. Per contra Mr.S.Santhosh Kumar, learned counsel appearing for the respondent contended that the Award passed by the Tribunal is based on the well laid down principles of law which were in vogue at the



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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 aged about 35 years and was a daily wager earning a sum of Rs.15,000/- per month. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.6,000/-. Considering the age of the victim, year of the accident and the number of minor children depending on their deceased mother, 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 five dependents, 1/5th of the deceased's income should be deducted towards his personal expenses. The proper multiplier to be adopted in the instant case is 16 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in **(2009) 6 SCC 121**.



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Notional Income = Rs.15,000/-

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

After 1/5 deduction = Rs.16,800/-

Loss of dependency

= Rs.16,800/- x 12 x 16

= Rs.32,25,600/-

In addition to that the claimants are entitled to Rs.2,40,000/- (40,000 x 6), 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.34,95,600/- (32,25,600 + 2,40,000 + 15,000 + 15,000 = 34,95,600) 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.32,25,600/-
2.	Loss of consortium (Rs.40,000/- x 6)	Rs.2,40,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.34,95,600/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.34,95,600/- which 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.34,95,600/-.
- iii. The appellants / claimants are directed to pay the 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



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draft the decree only after receipt of the Court fee.

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iv. The respondent, the Tamil Nadu State Transport Corporation (Villupuram Division - I) Limited, is directed to deposit the enhanced compensation amount i.e., Rs.34,95,600/- (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 / uploading of this order to the credit of M.C.O.P.152 of 2020 on the file of the Motor Accident Claims Tribunal, I Additional District and Sessions Court, Cuddalore.

v. Apportionment :

1st claimant / Husband	Rs.4,95,600/- (with interest and costs)
2nd claimant / Son (Minor)	Rs.6,00,000/-
3rd claimant / Son (Minor)	Rs.6,00,000/-
4th claimant / Son (Minor)	Rs.6,00,000/-
5th claimant / Daughter (Minor)	Rs.6,00,000/-
6th claimant / Son (Minor)	Rs.6,00,000/-



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vi. The compensation amount of the minor claimants 2 to 6 shall be deposited in any one of the Nationalised Bank till they attain majority. The first claimant is at liberty to withdraw his share after following due process of law.

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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,
I Additional District and Sessions Court, Cuddalore.

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division - I) Limited,
Cuddalore Region, Imperial Road,
Cuddalore - 607 002.

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



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R.HEMALATHA, J.

mtl

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