



Civil Miscellaneous Appeal No.2554 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 11.07.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Civil Miscellaneous Appeal No.2554 of 2023**

**and**

**C.M.P.No.23629 of 2023**

The Managing Director,  
Tamil Nadu State Transport Corporation Limited,  
Salem District.

... Appellant

Vs.

1.Madheswari  
W/o.Alagesan

2.Mangaiyarkarasi  
W/o.Pachamuthu

3.Alagesan  
S/o.Rengasamy

4.Minor Madhankumar  
S/o.Pachamuthu

5.Minor Manoranjini  
D/o.Pachamuthu  
(minors represented by next friend/  
mother Mangayarkarasi)

... Respondents



Civil Miscellaneous Appeal No.2554 of 2023

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.07.2022 made in M.C.O.P.No.101 of 2020 on the file of Motor Accident Claims Tribunal, III Additional District Court, Villupuram.

For Appellant : Mr.D.Nitin  
For Respondents : No appearance

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### **JUDGMENT**

The appellant transport corporation has filed the present appeal against the award passed by the Motor Accident Claims Tribunal, III Additional District Court, Villupuram, in M.C.O.P.No.101 of 2020, dated 18.07.2022.

2. The claimants, who are the wife, children and parents of the deceased Pachamuthu, filed the claim petition on the ground that the deceased Pachamuthu was riding a two wheeler on 28.01.2020 at Vridhachalam to Salem road and at about 3.40 p.m., the bus belonging to the appellant transport corporation was driven in a rash and negligent manner and it dashed on the two wheeler as a result of which the deceased sustained grievous injuries and he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.



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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the appellant transport corporation. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.18,17,800/- under various heads as follows:

| <i><b>Sl. No.</b></i> | <i><b>Compensation awarded under the head</b></i>                             | <i><b>Amount (in Rs.)</b></i> |
|-----------------------|-------------------------------------------------------------------------------|-------------------------------|
| 1.                    | Loss of dependency                                                            | 16,12,800/-                   |
| 2.                    | Loss of love and affection                                                    | 1,25,000/-                    |
| 3.                    | Loss of consortium                                                            | 40,000/-                      |
| 4.                    | Funeral expenses                                                              | 25,000/-                      |
| 5.                    | Loss of estate                                                                | 15,000/-                      |
|                       | <b>Total</b>                                                                  | <b>18,17,800/-</b>            |
|                       | <b>Deduction for not wearing helmet and non-production of driving license</b> | <b>50,000/-</b>               |
|                       | <b>Compensation payable</b>                                                   | <b>17,67,800/-</b>            |

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The appellant transport corporation, aggrieved by the quantum of compensation fixed by the Tribunal, has filed the present appeal.



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5. Heard Mr.D.Nitin, learned counsel for appellant transport corporation. The respondents have been served with notice and their names have also been printed in the cause list and there is no appearance either in person or through a counsel.

6. This Court carefully considered the submissions made by learned counsel for appellant transport corporation and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. The main ground urged by learned counsel for appellant is that the age of the deceased was mentioned as 36 years in the claim petition, whereas, the Tribunal had fixed the age of the deceased as 35 years based on the postmortem certificate marked as Ex.P2. Learned counsel submitted that if the age of the deceased is fixed as 36 years, the multiplier will be '15'.



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9. On carefully going through the claim petition, it is seen that the age of the deceased has been mentioned as 36 years. The second claimant, who is the wife of the deceased, has mentioned her age as 34 years and the age of the father and mother of the deceased was mentioned as 56 and 51 years respectively. In view of the same, the Tribunal ought to have taken the age of the deceased as mentioned in the claim petition and not based on the age mentioned in the postmortem certificate. To that extent, the finding of the Tribunal is liable to be interfered with by this Court. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

|                                  |          |                       |
|----------------------------------|----------|-----------------------|
| Monthly Income                   | :        | Rs. 8,000/-           |
| Add: Future Prospects            | :        | Rs. 3,200/-           |
| 40% of Rs.8,000/-                |          | -----                 |
|                                  |          | Rs. 11,200/-          |
| Annual Income                    | :        | Rs. 1,34,400/-        |
| (11,200 * 12)                    |          |                       |
| Less : Personal expenses         |          |                       |
| Rs.1,34,400/- * 1/4              | :        | Rs. 33,600/-          |
|                                  |          | -----                 |
|                                  |          | Rs. 1,00,800/-        |
| Multiplier                       | :        | x 15                  |
|                                  |          | -----                 |
| <b>Loss of income/dependency</b> | <b>:</b> | <b>Rs.15,12,000/-</b> |
|                                  |          | -----                 |



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10. The Tribunal has granted a sum of Rs.40,000/- under the head 'loss of consortium' and Rs.1,25,000/- under the head 'loss of love and affection'. Both these heads can be consolidated and a total compensation of Rs.2,00,000/- [40000 x 5] can be fixed under the head 'loss of love and affection'.

11. The compensation granted under the other heads is justified and does not require the interference of this Court.

12. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

| <i><b>Sl. No.</b></i> | <i><b>Compensation awarded under the head</b></i>                      | <i><b>Amount awarded by the Tribunal (in Rs.)</b></i> | <i><b>Amount awarded by this Court (in Rs.)</b></i> |
|-----------------------|------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------|
| 1.                    | Loss of dependency                                                     | 16,12,800/-                                           | 15,12,000/-                                         |
| 2.                    | Loss of love and affection                                             | 1,25,000/-                                            | 2,00,000/-                                          |
| 3.                    | Loss of consortium                                                     | 40,000/-                                              | -                                                   |
| 4.                    | Funeral expenses                                                       | 25,000/-                                              | 25,000/-                                            |
| 5.                    | Loss of estate                                                         | 15,000/-                                              | 15,000/-                                            |
|                       | <b>Total</b>                                                           | <b>18,17,800/-</b>                                    | <b>17,52,000/-</b>                                  |
|                       | Deduction for not wearing helmet and non-production of driving license | 50,000/-                                              | 50,000/-                                            |
|                       | <b>Compensation payable</b>                                            | <b>17,67,800/-</b>                                    | <b>17,02,000/-</b>                                  |



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13. The compensation awarded by the Tribunal at Rs.17,67,800/- is reduced to Rs.17,02,000/-. The appellant transport corporation is directed to deposit the compensation awarded by this Court, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

**11.07.2024**

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,  
III Additional District Court,  
Villupuram.



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**N.ANAND VENKATESH, J.**

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