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C.M.A.No.2845 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 18.12.2024**

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

**C.M.A.No.2845 of 2021**  
**and**  
**C.M.P.No.16364 of 2021**

The Managing Director,  
Tamil Nadu State Transport Corporation (Salem) Ltd.,  
No.12, Ramakrishna Road,  
Salem – 7. ... Appellant

Vs.

1.Sigamani  
2.K.Thangaraj  
3.K.Revathi  
4.K.Palanisamy ... Respondents

**Prayer :** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 29.03.2019 made in M.C.O.P.No.843 of 2017 on the file of the Motor Accident Claims Tribunal/ II Additional District Court, Tiruppur.

For Appellant : Mr.D.Raghu

For Respondents : Mr.M.Logesh  
for M/s.Ma.Pa.Thangavel

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## **JUDGMENT**

**WEB COPY** Challenging the award passed by the Motor Accident Claims Tribunal/ II Additional District Court, Tiruppur in M.C.O.P.No.843 of 2017, dated 29.03.2019 on the grounds of negligence and quantum of compensation, the Transport Corporation has filed the appeal.

2. The facts, which are necessary to appreciate the reasons for the appeal is herein below narrated :-

The respondents/claimants are the wife and children of the deceased Kandasamy. On 19.01.2017 at about 12.00 hours, when the deceased was riding two-wheeler bearing Regn.No.TN-40-Z-0117 from north to south in the Avinashi to Covai Main Road, in front of Karunambika Rig Service Shop, Avinashi, a bus bearing Regn.No.TN-30-N-0909, belonging to the Transport Corporation, driven by its driver in a rash and negligent manner and hit against the motorcycle of the deceased. Due to that accident, the deceased sustained grievous injuries all over the body. Immediately after the accident, the deceased was taken to the Government Hospital, Avinashi and CMCH, Coimbatore and after the best efforts of the duty doctors, the deceased life could not be saved. Therefore, the claimants have filed a claim petition claiming a sum of



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Rs.30,00,000/- as compensation for the death of the deceased before the Tribunal in M.C.O.P.No.843 of 2017.

3. Before the Tribunal, the claimants have examined two witnesses viz., P.W.1 and P.W.2 and marked 4 documents viz., Ex.P.1 to Ex.P.4. On the side of the Transport Corporation, they have examined one witness viz., R.W.1, but no document was marked. After adjudication, the Tribunal awarded a sum of Rs.11,75,000/- as compensation in favour of the claimants. Aggrieved by the same, the appellant/Transport Corporation has filed the appeal.

4. Learned counsel appearing for appellant/Transport Corporation submitted that, though no document has been produced before the Tribunal to prove the income of the deceased, however, the Tribunal had fixed a sum of Rs.10,000/- p.m., which is on the higher side and the same requires to be reduced. Further, he submitted that as per the Driving License of the deceased, the deceased was aged about 68 years at the time of accident, however, the Tribunal erred in adopting the multiplier of 9 instead of 5, which requires to be interfered with. He further submitted that the Tribunal awarded compensation under the heads loss of love and



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affection and loss of consortium in favour of all the respondents/claimants, which is wholly unsustainable. Accordingly, he prays for allowing the appeal.

5. Learned counsel appearing for the respondents/claimants fairly submitted that, instead of multiplier 5, the Tribunal ought to have adopted 9, which needs to be modified. Accordingly, he prays for appropriate orders.

6. Heard the learned counsel appearing for the appellant/Transport Corporation as well as the respondents/claimants and perused the materials available on record.

7. There is no quarrel that the deceased died as a result of the accident, in which, the bus belongs to appellant/Transport Corporation was involved. The Tribunal, considering the materials placed before it has rightly come to the conclusion that it was due to the rash and negligent driving of the appellant's bus that the accident had happened and therefore, it is the duty of the appellant/Transport Corporation to compensate the respondents/claimants. Therefore, on that point, no



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interference is warranted and the finding recorded by the Tribunal is confirmed.

8. Now, coming to the question of quantum of compensation awarded by the Tribunal, it is borne from the award passed by the Tribunal that, the Tribunal had erroneously adopted the multiplier of 9. At the time of accident, the age of the deceased is 68 years as per the Driving License of the deceased and therefore, this Court modifies multiplier to 5. Further, since the deceased is aged above 60 years, no future prospects can be added to the notional income. Hence, by accepting the notional income of Rs.10,000/- fixed by the Tribunal and deducting 1/4<sup>th</sup> towards the personal expenses of the deceased, the notional income of the deceased is arrived at Rs.7,500/- per month and the deceased being aged about 68 years, as evidenced from the records, adopting the multiplier of 5 as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** reported in ***(2009) 6 SCC 121***, the loss of income to the family is arrived at Rs.7,500/- \* 12 \* 5 = Rs.4,50,000/-, which is worked out as follows :-



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| <i>Loss of Income</i>                                                                              | <i>Amount in Rs.</i> |
|----------------------------------------------------------------------------------------------------|----------------------|
| Notional income (Per month)                                                                        | 10,000               |
| <b>Less:</b> Personal expenses (1/4 <sup>th</sup> ) (Rs.10,000/- x 1/4 <sup>th</sup> ) (Per month) | 2,500                |
|                                                                                                    | 7,500                |
| Notional income (per annum) (Rs.7,500/- x 12)                                                      | 90,000               |
| Multiplier                                                                                         | 5                    |
| <b>Total</b>                                                                                       | <b>4,50,000</b>      |

9. Further, the Tribunal had awarded a sum of Rs.1,00,000/- towards loss of love and affection; Rs.1,60,000/- towards loss consortium; Rs.15,000/- towards funeral expenses and Rs.10,000/- towards transportation. This Court is of the view that the compensation awarded under the heads funeral expenses and transportation are just and reasonable and the same is confirmed.

10. Further, the compensation awarded under the heads loss of love and affection and loss of consortium are on the higher side and the same is reduced to a sum of Rs.40,000/- and Rs.1,20,000/- respectively. Since no compensation has been awarded under the head loss of estate, this Court awards a sum of Rs.15,000/- under the said head.



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**WEB COPY** 11. In view of the above, the compensation awarded by the Tribunal is modified as under :-

| <b>S. No.</b> | <b>Description</b>         | <b>Awarded by the Tribunal<br/>(Amount in Rs.)</b> | <b>Awarded by this Court (Amount in Rs.)</b> |
|---------------|----------------------------|----------------------------------------------------|----------------------------------------------|
| 1             | Loss of income             | 8,91,000/-                                         | 4,50,000/-<br>(reduced)                      |
| 2             | Loss of consortium         | 1,00,000/-                                         | 40,000/-<br>(reduced)                        |
| 3             | Loss of estate             | -                                                  | 15,000/-<br>(granted)                        |
| 4             | Loss of love and affection | 1,60,000/-                                         | 1,20,000/-<br>(reduced)                      |
| 5             | Funeral expenses           | 15,000/-                                           | 15,000/-                                     |
| 6             | Transportation             | 10,000/-                                           | 10,000/-                                     |
|               | <b>Total</b>               | <b>11,76,000/-</b>                                 | <b>6,50,000/-</b>                            |
|               | <b>Rounded off to</b>      | <b>11,75,000/-</b>                                 | <b>6,50,000/-</b>                            |

12. Accordingly, the Civil Miscellaneous Appeal is allowed and the impugned award passed by the Tribunal is modified, reducing the compensation amount from **Rs.11,75,000/-** to **Rs.6,50,000/-**. The appellant/Transport Corporation is directed to deposit the said amount to deposit to the credit of M.C.O.P.No.843 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit along with costs as awarded by the Tribunal, less, the amount,



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already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the share of the respondents/claimants directly to the their bank account as per the apportionment of the Tribunal, through RTGS within a period of two (2) weeks thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

**18.12.2024**

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Motor Accident Claims Tribunal/ II Additional District Court,  
Tiruppur.



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**M.DHANDAPANI, J.**

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