



C.M.A.No.2536 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.2536 of 2024

1. Asha

2. Vijayarani

3. Seenuvasan

...Petitioners/Appellants

vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore.

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 25.02.2022 made in M.C.O.P.No.284 of 2019 on the file of the Motor Accident Claims Tribunal / Special Sub Court, Tiruvannamalai.

For Appellants : Ms.M.Malar

For Respondent : Mr.Murali vinoth



WEB COPY



C.M.A.No.2536 of 2024

JUDGMENT

(Judgment was made by Mrs.R.Kalaimathi, J.)

Being aggrieved by the award dated 25.02.2022 passed in M.C.O.P.No.284 of 2019 on the file of Motor Accident Claims Tribunal, Tiruvannamalai, the claimants who are the dependents of the deceased Gopi, have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. Heard Ms.M.Malar, learned counsel appearing for the appellants/claimants and Mr.Murali Vinodh, learned counsel appearing for the respondent / Transport Corporation.

3. At trial, on the side of the appellants/claimants, two witnesses have been examined and three documents were marked. On the respondent side, one witness was examined.

4. It has come on record through the evidence of P.W.1 - Wife of the deceased Gopi that the deceased was a Natheswaram Vithvaan and he was also running a Barber Shop and earning a sum of Rs.25,000/- per month. To substantiate the same, no document is filed. Date of accident



C.M.A.No.2536 of 2024

is 21.02.2019. As per Ex.P3 – Driving Licence of the deceased, age of the deceased at the relevant point of time was 27 years.

5. This appeal mainly focuses on the monthly income fixed by the Tribunal.

6. Upon consideration of the abovesaid details, we deem it fit to fix the salary at Rs.15,000/- per month. As held by the Apex Court in *National Insurance Co. Ltd., vs Pranay Sethi and others* reported in 2017 (2) TN MAC 609 (SC) for computing the income, 40% has to be added as future prospects. As per the law laid down by the Apex Court in *Smt.Saralavarma and others vs Delhi Corporation and others*, reported in 2009(2) TNMAC 1 (SC), relevant multiplier to be adopted is 17m. Claimants are wife, mother and father of the deceased. Therefore, as held by the Apex Court in *Saralavarma case*, if the number of dependents are 3 in number, then 1/3rd has to be deducted for personal and living expenses. Based on the aforesaid details, the loss of income has to be computed as follows:

Age of the deceased	= 27 years
Notional income fixed	= Rs.15,000/- per month
Future Prospects to be added	= 40%



C.M.A.No.2536 of 2024

= Rs.15,000/- + 40%

= Rs.21,000/-

Deduction for personal and
living expenses

= $\frac{1}{3}$ rd

= Rs.21,000/- - Rs.7,000/-

= Rs.14,000/-

Multiplier to be adopted

= 17m

For Loss of income

= Rs.14,000/- X 12 X 17

= Rs.28,56,000/-

7. Therefore, loss of income is arrived at Rs.28,56,000/-. In all other aspects, the award of the Tribunal appears to be reasonable and we see no reason to interfere with the same. Therefore, the Compensation awarded by the Tribunal is reworked and tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Income	Rs.17,13,600/-	Rs.28,56,000/-	Enhanced
2	Loss of Consortium	Rs.1,20,000/-	Rs.1,20,000/-	Confirmed
3	Loss of Estate	Rs.15,000/-	Rs.15,000/-	Confirmed
4	For Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	Total	Rs.18,63,600/-	Rs.30,06,000/-	Enhanced



8. Thus, the compensation awarded by the Tribunal is enhanced from Rs.18,63,600/- to Rs.30,06,000/- which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The 1st petitioner is entitled for an amount of Rs.15,06,000/- and the 2nd and 3rd petitioners are entitled to each Rs.7,50,000/-.

9. In the result,

(i) The Civil Miscellaneous Appeal stands Partly Allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.18,63,600/- to Rs.30,06,000/-.

(iii) The Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., Rs.30,06,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.284 of 2019 on the file of Motor Accidents Claims Tribunal, Thiruvannamalai within a period of six weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, as apportioned by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.



C.M.A.No.2536 of 2024

(v) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

(J.N.B.,J.)

(R.K.M.,J.)

30.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
mac

To

1. The Motor Accident Claims Tribunal,
Ist Additional District and Sessions Judge, Vellore

2. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



C.M.A.No.2536 of 2024

J.NISHA BANU, J.

and

R.KALAIMATHI, J.

mac

To

1. The Motor Accident Claims Tribunal / Special Sub Court,
Tiruvannamalai.
2. The Section Officer,
VR Section,
High Court, Madras.

C.M.A.No.2536 of 2024

30.09.2024