



CMA.No.1496 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1496 of 2024

1. Sonam

2. Minor Sabuni

(Rep. by her mother as Next Friend
and next Guardian 1st petitioner)

3. Ram Betti Bhaghel

... Appellants

vs.

The Managing Director,
Metropolitan Transport Corporation Ltd., (MTC)
Pallavan Sali, Mount Road,
Chennai - 600 002.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 07.12.2023 in M.C.O.P.2889/2020 on the file of the Motor Accident Claims Tribunal, Special Sub Judge II, Small Causes Court, Chennai.

For Appellants : Mr.U.Chithambaram

For Respondent : Mr.M.Murali Vinodh,
Standing counsel

J U D G M E N T



The appellants are the claimants in M.C.O.P.2889/2020 on the file of the Motor Accident Claims Tribunal, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.49,00,000/- for the death of one Praveen Kumar (husband of the first claimant, father of the second claimant and son of the third claimant) in a road accident which happened on 10.02.2020.

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

On 10.02.2020, Praveen Kumar (deceased) was riding a two wheeler bearing Registration number TN 18 AR 8156 on Ponneri highway. When he was nearing Andarkuppam, a bus bearing Registration number TN 01 N 4097 belonging to the respondent, the Tamilnadu State Transport Corporation, hit the two wheeler, resulting in the instantaneous death of Praveen Kumar.

3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN 01 N 4097 belonging to the respondent Transport Corporation was the cause of the accident and therefore, the respondent is liable to pay compensation to them.



4. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.24,35,000/- 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 07.12.2023.

5. Aggrieved over the quantum of compensation awarded passed by the Tribunal, the appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act.

6. Heard Mr.U.Chithambaram, learned counsel appearing for the appellants and Mr.M.Murali Vinodh, learned counsel for the respondent.

7. Mr.U.Chithambaram, learned counsel appearing for the appellants contended that the deceased was selling 'Pani puri' in three different locations, earning a sum of Rs.1,50,000/- per month. However, the Tribunal fixed a meagre sum of Rs.12,000/- as his monthly notional income. He therefore prayed for enhancing the notional monthly income of the deceased.



8. Per contra Mr.M.Murali Vinodh, learned counsel appearing for the respondent, contended that the Award passed by the Tribunal is based on well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

9. According to the claimants, the deceased, aged 29 years, was engaged in the business of cooking 'Pani puri' and selling the same in three different locations, earning a sum of Rs.1,50,000/- p.m. However, they did not adduce any evidence to show the actual income of the deceased. It is pertinent to point out that the accident took place in the year 2020. In the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased as Rs.16,000/- 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 dependents, 1/3rd of the deceased's income should be deducted towards his personal expenses. 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.16,000/-

after adding 40% Future Prospects = Rs.22,400/-

After 1/3 deduction = Rs.14,933/-

Loss of dependency :

= Rs.14,933/- x 12 x 17

= Rs.30,46,332/-

In addition to that the claimants are entitled to Rs.1,20,000/- (40,000/-x3), Rs.15,000/- and Rs.15,000/- towards 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.31,96,332/- (30,46,332 + 1,20,000 + 15,000 + 15,000 = 31,96,332) as shown in the following tabular column:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.30,46,332 /-
2.	Loss of consortium (Rs.40,000/- x 3)	Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-



<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
Total		Rs.31,96,332/-

10. The compensation awarded by the Tribunal is enhanced from Rs.24,35,000/- to Rs.31,96,332/- which would carry interest at the rate of 7.5% per annum.

11. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.24,35,000/- to Rs.31,96,332/-.
- iii. The appellants / claimants are directed to pay 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 draft the decree only after receipt of the Court fee.
- iv. The respondent, Metropolitan Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.31,96,332/- (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



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M.C.O.P.2889/2020 on the file of the Motor Accident Claims
Tribunal, Special Sub Judge II, Small Causes Court, Chennai.

v. Apportionment :

1st claimant / wife	Rs.10,96,332/- (with interest and costs)
2nd claimant / daughter	Rs.13,50,000/-
3rd claimant / mother	Rs.7,50,000/-

- vi. The share of the minor appellant (2nd claimant, minor Sabuni) is directed to be deposited in any one of the Nationalised Bank till she attains majority. The claimants 1 and 3 are at liberty to withdraw their respective shares after following due process of law.

05.09.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

R.HEMALATHA, J.

vum

To

- 1.The Motor Accidents Claims Tribunal,
Special Sub Judge II, Small Causes Court,
Chennai.
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.



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