



CMA.No.146 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.146 of 2023

1. M.Anitha

2. Minor M.Sabaresh
(Minor represented by the mother Natural
Guardian 1st petitioner herein)

3. Santha

... Appellants

vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Railway Station New Road,
Kumbakonam - 612 001.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 08.10.2021 in M.A.C.T.O.P.3560/2017 on the file of the Motor Accident Claims Tribunal, II Additional Sub Court, Cuddalore.

For Appellants : Mrs.Ramya V.Rao

For R2 : Mr.C.Senapathi

J U D G M E N T



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The appellants are the claimants in M.A.C.T.O.P.3560/2017 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.30,00,000/- for the death of one Moorthi (husband of the first claimant, father of the second claimant and son of the third claimant) in a road accident which happened on 12.03.2017.

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

On 12.03.2017, Moorthi (deceased) was walking along Chidhambaram - Cuddalore road. When he was nearing Ramabhavan hotel, a bus bearing Registration number TN-68-N-0470 belonging to the Tamilnadu State Transport Corporation, hit him, as a result of which, he sustained injuries all over the body. He was immediately rushed to hospital. However, he succumbed to injuries on the same day.

3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN 68-N-0470 belonging to the respondent Transport Corporation was the cause of the accident and therefore, the respondent is liable to pay compensation to



them.

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4. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.17,62,800/- 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 08.10.2021.

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 Mrs.Ramya V.Rao, learned counsel appearing for the appellants and Mr.C.Senapathi, learned counsel for the respondent.

7. Mrs.Ramya.V.Rao, learned counsel appearing for the appellants contended that the deceased was a Mason, aged 32 years on the date of accident and the Tribunal had fixed a meagre sum of Rs.9,000/- as his monthly notional income. She therefore prayed for enhancing the notional monthly income of the deceased.

8. Per contra Mr.C.Senapathi, learned counsel appearing for the respondent, contended that the Award passed by the Tribunal is based on



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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. In the claim petition, it is contended that the deceased was a Mason, aged about 32 years, earning a sum of Rs.15,000/- per month. The Tribunal fixed the notional income of the deceased as Rs.9,000/-. It is pertinent to point out that the accident took place in the year 2017 and in the facts and circumstances, 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 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 16 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.15,000/-



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

After 1/3 deduction = Rs.14,000/-

Loss of dependency :

= Rs.14,000/- x 12 x 16

= Rs.26,88,000/-

In addition to that the claimants are entitled to Rs.1,20,000/- (40,000/- x 3), 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.28,38,000/- (26,88,000 + 1,20,000 + 15,000 + 15,000 = 28,38,000) 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.26,88,000 /-
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/-
Total		Rs.28,38,000/-

10. The compensation awarded by the Tribunal is enhanced from Rs.17,62,800/- to Rs.28,38,000/- which would carry interest at the



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rate of 7.5% per annum.

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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.17,62,800/- to Rs.28,38,000/-.
- 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, Tamilnadu State Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.28,38,000/- (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.A.C.T.O.P.3560/2017 on the file of the Motor Accident Claims Tribunal, II Additional Sub Court, Cuddalore.
- v. On such deposit being made, the appellants / claimants are at liberty



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to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact. The share of the minor appellant is directed to be deposited in any one of the Nationalised Bank till they attain majority. The 1st appellant being the mother of the 2nd appellant is permitted to withdraw the accrued interest once in three months for the welfare of the minor.

vi. The appellants/claimants are not entitled to claim any interest for the period of delay of 43 days in filing this appeal.

27.08.2024

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

To

1.The Motor Accidents Claims Tribunal,
II Additional Sub Court, Cuddalore.

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

R.HEMALATHA, J.

vum



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