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CMA.No.2901 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M. DHANDAPANI

C.M.A.NO.2901 OF 2021

1. S. Dhanalakshmi
 2. S. Gururaja
- ... Appellants

/vs/

1. S. Senthil Kumar
 2. Reliance General Insurance Company Limited,
Reliance House, 6th Floor,
Nungambakkam, Chennai 600 006.
 3. The Managing Director,
Tamilnadu State Transports Corporation (Villupuram) Ltd.,
Kancheepuram 631 502.
- ... Respondents

Prayer : Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act against the judgment and decree dated 18.03.2021 in MCOP.No.6431 of 2016 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.1, Full Additional In charge of II Court of Small Causes), Chennai.

For Appellants : Mr. R. Nalliyappan
For Respondents : Mrs. C. Harini for
M/s.M.B.Gopalan Associates
Mr.A.Vinoth Raj
R1- Dismissed as not pressed
vide order dated 30.04.2024

JUDGMENT



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This Civil Miscellaneous Appeal is filed against the judgment and decree dated 18.03.2021 in MCOP.No.6431 of 2016 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.1, Full Additional Incharge of II Court of Small Causes), Chennai.

2. The facts leading to filing of this Civil Miscellaneous Appeal is as follows:-

(i) On 27.09.2015 at 15.45 hours, when the deceased by name G. Nithish was riding Motorcycle bearing Regn.No.TN 85 C 7403 along the Anna Salai in front of Campa Cola compound from North to South direction, a lorry bearing Regn.No.TN 85 C 8889, which was driven by its driver, in a rash and negligent manner, dashed against the two wheeler and simultaneously, a TNSTC bus bearing Regn.No.TN 21 N 1487 came from the same direction, driven by its driver, in a rash and negligent manner, hit against the motor cycle. Due to the impact, the deceased fell down and the back wheel of the bus ran over the head of the deceased.

(ii) Claiming compensation for the death of the deceased Nithish, the legal heirs of the deceased filed a claim petition in MCOP.No.6431 of 2016 before the Motor Accidents claims Tribunal (II Small Causes) at Chennai



seeking compensation of Rs.41 lakhs.

(ii) According to the claimants, the drivers of the lorry and the TNSTC Bus are responsible for the accident. Therefore, the respondents 1 and 2, who are owner and insurer of the lorry and 3rd respondent / TNSTC Bus are jointly, vicariously and statutorily liable to pay compensation to the claimants.

3. Before the claims tribunal, on the side of the claimants, witnesses PW1 and PW2 were examined and exhibits Ex.P.1 to Ex.P.14 were marked. On the side of the respondents, RW1 was examined as witness and Ex.R1 was marked. The tribunal awarded a compensation of Rs.15,97,000/- and directed the 2nd respondent/Insurance company and 3rd respondent/TNSTC to pay the compensation at the ratio of 50:50 to the claimants at the rate of 7.5% per annum from the date of petition till the date of realisation.

4. The compensation awarded by the tribunal under various conventional heads are as follows:

<i>S.NO.</i>	<i>Conventional Heads</i>	<i>Amount</i>
1.	Loss of Dependency	Rs.15,12,000/-



WEB COPY

CMA.No.2901 of 2021



S.NO.	Conventional Heads	Amount
2.	Loss of Love and Affection	Rs. 50,000/-
3.	Loss of Estate	Rs. 15,000/-
4.	Transport Charges	Rs. 5,000/-
5.	Funeral Expenses	Rs. 15,000/-
	Total	Rs. 15,97,000/-

Out of the award amount, the 2nd respondent is liable to pay 50% of the compensation which comes to Rs.3,99,250/- each to 1st and 2nd claimants and the 3rd respondent is liable to pay the remaining 50% of the compensation which comes to Rs.3,99,250/- each to 1st and 2nd claimants.

5. Aggrieved against the quantum of compensation fixed by the tribunal on lower side, the claimants have filed the present Civil Miscellaneous Appeal.

6. The learned counsel for the appellants submitted that in the present case, there is no need for discussion with regard to negligence aspect. The tribunal has fixed the liability of negligence on the drivers of both the vehicles at 50:50 and directed to pay the insurer of the lorry and TNSTC, the award amount at the ratio of 50:50, which need not be interfered with. He further submitted that the accident was occurred in the year 2016 and the deceased was 24 years at the time of the accident,



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however, the tribunal erroneously fixed the notional income of the deceased at Rs.10,000/- which is very meagre. *As per Sarla Verma's case*, the applicable notional income for the year 2016 is Rs.14,000/-. It is his further submission that the tribunal has awarded meagre amount on the head loss of estate, funeral expenses, loss of love and affection and transportation. Therefore, he prayed for enhancement of the compensation awarded by the tribunal and for allowing the appeal.

7. The learned counsels appearing for the 2nd respondent/Insurance company as well as the Tamilnadu State Transport Corporation submitted that the trial court on the basis of oral and documentary evidence, has rightly fixed Rs.10,000 as notional income of the deceased. Further, it has rightly awarded Rs.50,000/- towards loss of love and affection and Rs. 15 000/- towards funeral expenses. Therefore, the compensation awarded by the tribunal is just and reasonable, hence it need not be interfered with. Accordingly he prayed for dismissal of the appeal.

8. Heard both sides and perused the materials available on record.

9. In the instant case, admittedly the appeal was filed by the claimants. There is no dispute with regard to the negligence aspect. While arriving loss of dependency, the tribunal has fixed Rs.10,000 as



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monthly income of the deceased. It is seen that at the time of death, the deceased was aged 24 years and the accident was happened in the year 2016 . As per the Sarla verma's case, the applicable notional income is Rs.14,000/-, whereas, the tribunal has fixed the monthly income of the deceased at Rs.10,000/-. Hence, this court fixes the monthly income of the deceased at Rs.14,000/- as per the dictum laid down by the Apex Court. After deducting 50% of the monthly income towards the personal and living expenses of the deceased, his income to the family would be Rs.7000/-. On adding 40% towards future prospectus, his monthly salary would be Rs 9,800/- (7000+2800). Accordingly, the compensation awarded by the tribunal under the head Loss of Dependency is computed as follows:

$$9800 \times 12 \times 18 = 21,16,800/-$$

10. It appears that the tribunal has awarded a sum of Rs.50,000/- towards loss of love and affection which seems to be very meagre. Hence, this Court awards Rs.40,000/- each to the claimants/appellants for the death of their son under such head. It seems that the compensation awarded under the heads loss of estate, transportation charges and funeral expenses are just and reasonable, hence, the amounts awarded under such heads



need not be interfered with.

11. Thus, the compensation awarded by this court under various conventional heads are as follows:

<i>S.NO.</i>	<i>Conventional Heads</i>	<i>Amount</i>
1.	Loss of Dependency	Rs. 15,12,000/-
2.	Loss of Love and Affection (2 x 40000)	Rs. 80,000/-
3.	Loss of Estate	Rs. 15,000/-
4.	Transport Charges	Rs. 5,000/-
5.	Funeral Expenses	Rs. 15,000/-
	Total	Rs. 16, 27,000/-

12. In the result,

- the Civil Miscellaneous is partly allowed. No costs.
- The claimants/appellants are entitled to enhanced compensation amount of Rs.16,27,000/- awarded by this Court along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.
- Accordingly, the 2nd and 3rd respondents are directed to deposit the enhanced compensation amount awarded by this court at the ratio of 50:50 along with interest at the rate of



CMA.No.2901 of 2021

7.5% per annum, from the date of petition till the date of realisation.

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- On such deposit, the claimants/appellants are permitted to withdraw the enhanced compensation amount awarded by this court, as per the apportionment made by the tribunal, less the amount, if any, already withdrawn, on making appropriate application before the trial court.

09.12.2024

msr

Index: Yes/No

Internet: Yes/No

To

The Motor Accidents Claims Tribunal

(Special Sub Court No.1, Full Additional

In charge of II Court of Small Causes), Chennai.

M. DHANDAPANI, J.

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C.M.A.NO.2901 OF 2021

09.12.2024

**CMA NO. 2901 of 2021
IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11-09-2025**



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CORAM
THE HONOURABLE MR JUSTICE M.DHANDAPANI

CMA NO. 2901 of 2021

S.Dhanalakshmi
W/o. Gururaja, Res At, 125, Pammal Main
Road, Pammal, Chennai -600 075 and another

Appellant(s)

Vs

S.Senthilkumar
Plot No.37, Zakkiya Nagar, Amarambedu,
Chennai - 600 069 and 2 Others

Respondent(s)

For Appellant(s):

Mr.R.Nalliyappan

For Respondent(s):

Mrs.C.Harini for M/s.M.B.Gopalan Associates
for R2

Mr.A.Vinoth Raj for R3

R1 - Dismissed As Not Pressed Vide order Dt:
30.04.2024

ORDER

The matter is listed today under the caption 'for being mentioned'.

2.The learned counsel appearing for the appellants would submit that in the judgment dated 09.12.2024 made in C.M.A.No.2901 of 2021 in paragraph no.11, inadvertently, the amount awarded for loss of dependency has been mentioned as Rs.15,12,000/- instead of Rs.21,16,800/- and hence there is an error in the total amount and prayed for appropriate orders.

3.In view of the above, in the judgment dated 09.12.2024 made in C.M.A.No.2901 of 2021, in the tabular column in paragraph no.11, the amount awarded for loss of dependency is to be read as '**Rs.21,16,800/-**' instead of '**Rs.15,12,000/-**' and the total amount is to be read as '**Rs.22,31,800/-**' instead of '**Rs.16,27,000/-**'. Likewise, the relevant portion in paragraph 12 of the said order is to be read as '**The claimants/appellants are entitled to enhanced**



CMA.No.2901 of 2021

compensation amount of Rs.22,31,800/- awarded by this Court along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation' instead of 'The claimants/appellants are entitled to enhanced compensation amount of Rs.16,27,000/- awarded by this Court along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation'.

4.Registry is directed to carry out the necessary corrections and re-issue copy of the order to the respective learned counsel appearing for the parties.

11-09-2025

To

1. S.Senthilkumar

Plot No.37, Zakkiya Nagar, Amarambedu, Chennai - 600 069

2. Reliance General Insurance Company Ltd,

Reliance House, 6th Floor, Nungambakkam, Chennai - 600 006

3. The Managing Director

Tamil Nadu State Transport Corporation (villupuram)ltd, Kancheepuram- 631 502

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