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C.M.A.Nos.3207 & 3208 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.Nos.3207 & 3208 of 2021

1. Ayub Basha
2. Abeetha Begum
3. Parveen
4. Shabana
5. Minor.Mubeena
6. Minor.Mohamed Fuzan ... Appellants in both C.M.As.
(Minor 5th and 6th appellants are rep.
by the natural guardian 4th appellant)

VS.

1. The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
No.12, Ramakrishna Road, Salem - 7.
2. Asheek Ali.K.A.
3. M/s.IFFCO TOKIO General
Insurance Company Limited,
LIC Colony, JH Towers,
2nd Floor, Opposite to New Bus Stand,
Salem - 4. ... Respondents in both C.M.As.

COMMON PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Award, dated 15.02.2019 in M.C.O.P.241/2016 & M.C.O.P.242/2016 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Salem.



C.M.A.Nos.3207 & 3208 of 2021

In both C.M.As
For Appellants : Mr.S.P.Yuvaraj
For R1 : Mr.Nitin
For R2 : Mr.S.Arunkumar

COMMON JUDGMENT

The appellants are the claimants in M.C.O.P.241/2016 & M.C.O.P.242/2016 on the file of the Motor Accident Claims Tribunal, Salem. They filed the claim petitions under Section 166 of the Motor Vehicles Act & Rule 3 of M.A.C.T. Rules, seeking compensation of Rs.15,00,000/- each, for the death of Abdul Bari and Ayesha Beevee (Parents of the claimants 1 to 4 and grandparents of the claimants 5 and 6), in a road accident that occurred on 13.12.2015.

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

On 13.12.2015, Abdul Bari (deceased) and Ayesha Beevee (deceased) were travelling in a Toyoto Innova Car bearing Registration number TN 47 AV 1247 on Chennai - Salem road. When they were nearing Vazhapadi, a speeding Tamilnadu State Transport Corporation bus bearing Registration number TN-30-N-0058, hit the car, as a result of which, both Abdul Bari and Ayesha Beevee died on spot.



3. According to the claimants, the rash and negligent driving of the driver of bus bearing Registration Number TN-30-N-0058 (belonging to the Tamilnadu State Transport Corporation) was the cause of the accident and therefore, the first respondent, the Transport Corporation is liable to pay compensation to them.

4. The claimants have also impleaded the owner of the Toyoto Innova Car and his insurer, the IFFCO TOKIO General Insurance Company Limited as parties to the claim petitions.

5. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the driver of the bus bearing Registration number TN-30-N-0058 and awarded compensation of Rs.2,32,500/- each in MCOP.241/2016 and MCOP.242/2016 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 15.02.2019.

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



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7. Heard Mr.S.P.Yuvaraj, learned counsel appearing for the appellant, Mr.Nitin, learned counsel for the first respondent and Mr.S.Arunkumar, learned counsel for the third respondent.

8. Mr.S.P.Yuvaraj, learned counsel appearing for the appellants, claimants contended that while Abdul Bari (deceased), aged 73 years, was owning a footwear shop and Ayesha Beevee (deceased) aged 67 years, was a tailor and both of them were earning a sum of Rs.15,000/- per month each. However, the Tribunal had fixed a meagre sum of Rs.4,500/- as their monthly notional income. He, therefore prayed for enhancement of the same.

9. Per contra, Mr.Nitin, learned counsel appearing for the first respondent / Tamilnadu State Transport Corporation, contended that the Award passed by the Tribunal is based on the 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.



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C.M.A.Nos.3207 & 3208 of 2021

10. According to the claimants, the deceased, aged 73 years and 67 years, were earning a sum of Rs.15,000/- per month each. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.4,500/- each. It is pertinent to point out that the accident took place in the year 2015. Considering the year of accident and age of the victims, this Court is of the opinion that fixing notional monthly income of the deceased as Rs.8,000/- each would meet the ends of justice. Since there are four dependents, 1/4th of the deceased's income should be deducted towards their personal expenses. The proper multiplier to be adopted in the instant case is 5 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.8,000/-

After 1/4 deduction = Rs.6,000/-

Loss of dependency :



C.M.A.Nos.3207 & 3208 of 2021

= Rs.6,000/- x 12 x 5

= Rs.3,60,000/-

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In addition to that the claimants are entitled to Rs.1,60,000/- (40,000/-x4), 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.5,50,000/- (3,60,000 + 1,60,000 + 15,000 + 15,000 = 5,50,000) 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. 3,60,000/-
2.	Loss of consortium (Rs.40,000/- x 4)	Rs.1,60,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.5,50,000/-

11. The compensation awarded by the Tribunal is enhanced to Rs.5,50,000/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

- The Civil Miscellaneous Appeals are partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced to



C.M.A.Nos.3207 & 3208 of 2021

Rs.5,50,000/- in each appeals in C.M.A.Nos.3207 & 3208 of 2021.

WEB COPY

- 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 first respondent, Tamilnadu State Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.5,50,000/- in each case (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.C.O.P.241/2016 and MCOP.242/2016 on the file of the Motor Accident Claims Tribunal, II Additional District Court, Salem.
- v. On such deposit being made, the appellants, claimants are permitted to withdraw the same with accrued interest and costs, after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

04.10.2024



C.M.A.Nos.3207 & 3208 of 2021

Index : Yes/No

Speaking order / Non speaking order

Neutral Citation : Yes / No

vum

R.HEMALATHA, J.

vum

To

1.The Motor Accidents Claims Tribunal,
II Additional District Judge, Salem.

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

C.M.A.Nos.3207 & 3208 of 2021

04.10.2024