



WEB COPY



CMA.No.3340 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.3340 of 2021

1.Nagammal

2.Minor. Nandakumar

3.Minor. Premkumar

(2 and 3 minor appellants are represented
by their mother and natural guardian Nagammal,
the first appellant)

4.Santhammal

5.M.Balan

... Appellants

vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Thittakudi Branch, Villupuram - 605 602.

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 22.04.2021 in M.C.O.P. 23 of 2020 on the file of the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Tiruvallur at Poonamallee.



CMA.No.3340 of 2021

For Appellants : Mr.K.Varadha Kamaraj
For Respondent : Mr.C.R.Sureshkumar

J U D G M E N T

The appellants are the claimants in M.C.O.P. 23 of 2020 on the file of the Motor Accident Claims Tribunal, Tiruvallur at Poonamallee. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.80,00,000/- for the death of one Shoban Babu, (the husband of first claimant, father of claimants 2 and 3 and son of claimants 4 and 5) in a road accident that took place on 07.11.2020.

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

On 07.11.2020, Shoban Babu (since deceased) was riding his motorcycle bearing Registration Number TN-12-L-1039 on Tambaram – Puzhal Bypass Road. At about 7.45 hours, a speeding bus bearing Registration Number TN-32-N-3991 belonging to the respondent, the Tamil Nadu State Transport Corporation Limited came on the opposite



CMA.No.3340 of 2021

direction and hit the motorcycle driven by Shoban Babu resulting in his instantaneous death.

3. According to the claimants the rash and negligent driving of the driver of the bus belonging to the respondent, the Tamil Nadu State Transport Corporation Limited was the cause of accident and therefore, they are liable to pay compensation to them.

4. The respondent, the Tamil Nadu State Transport Corporation Limited, Villupuram, contested the claim petition.

5. The Tribunal after analysing the evidence on record, fastened negligence on the part of the driver of the bus and awarded compensation of Rs.18,05,000/- to the appellants / claimants 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 22.04.2021.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants / claimants have filed the present appeal under



CMA.No.3340 of 2021

Section 173 of the Motor Vehicles Act, 1988.

WEB COPY

7. Heard Mr.K.Varadha Kamaraj, learned counsel appearing for the appellants and Mr.C.R.Sureshkumar, learned counsel appearing for the respondent.

8. Mr.K.Varadha Kamaraj, learned counsel appearing for the appellants would contend that the deceased was a painter by profession earning a sum of Rs.30,000/- per month. However, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/-, which, according to him, is very meagre. He therefore, prayed for enhancement of the notional income of the deceased.

9. Per contra Mr.C.R.Sureshkumar, learned counsel appearing for the respondent contended that the Award passed by the Tribunal is based on the well laid down 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.



WEB COPY

10. According to the claimants, the deceased was aged about 43 years and was a painter by profession earning a sum of Rs.30,000/- per month. In the absence of income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/-. Considering the age of the victim and the year of the accident, 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**, 25% is added towards future prospects of the deceased. Since there are five dependents, 1/4th of the deceased's income should be deducted towards his personal expenses. The deceased was aged 43 years on the date of accident and the proper multiplier to be adopted in the instant case is 14 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/-



WEB COPY



CMA.No.3340 of 2021

25% Future Prospects = Rs.18,750/-

After 1/4th deduction = Rs.14,063/-

Loss of dependency

= Rs.14,063/- x 12 x 14

= Rs.23,62,584/-

In addition to that the claimants are entitled to Rs.2,00,000/- (40,000 x 5), Rs.15,000/- and Rs.15,000/- for '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.25,92,584/- (23,62,584 + 2,00,000 + 15,000 + 15,000= 25,92,584) 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.23,62,584/-
2.	Loss of consortium (Rs.40,000/- x 5)	Rs.2,00,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-
Total		Rs.25,92,584/-



CMA.No.3340 of 2021

WEB COPY

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.18,05,000/- to Rs.25,92,584/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.18,05,000/- to Rs.25,92,584/-.
- iii. The appellants / claimants are directed to pay the 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, the Tamil Nadu State Transport Corporation Limited, is directed to deposit the enhanced compensation amount i.e., Rs.25,92,584/- (less the amount already deposited) together



CMA.No.3340 of 2021

WEB COPY

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 to the credit of M.C.O.P. 23 of 2020 on the file of the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Tiruvallur at Poonamallee.

v. Apportionment :

1st claimant / Wife	Rs.6,92,584/- (with interest and costs)
2nd claimant / Son	Rs.7,00,000/-
3rd claimant / Son	Rs.7,00,000/-
4th claimant / Mother	Rs.4,00,000/-
5th claimant / Father	Rs.1,00,000/-

vi. The share of the minor claimants 2 and 3 are directed to be deposited in any one of the Nationalised Bank till they attain majority. The claimants 1, 4 and 5 are at liberty to withdraw their respective shares after following due process of law.

09.09.2024

Index : Yes/No



CMA.No.3340 of 2021

Speaking/Non-speaking order

mtl

To

- 1.The Motor Accidents Claims Tribunal,
III Additional District and Sessions Court, Tiruvallur at Poonamallee.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Thittakudi Branch, Villupuram - 605 602.
- 3.The Section Officer, VR Section, Madras High Court, Chennai.



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CMA.No.3340 of 2021

R.HEMALATHA, J.

mtl

C.M.A.No.3340 of 2021

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