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CMA.No.699 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.699 of 2023 & C.M.P. No.6185 of 2023
& Cros. Obj. No.31 of 2024

C.M.A. No.699 of 2023

The Managing Director,
State Express Transport Corporation,
No.1, Pallavan Salai,
SETC Chennai Mount Road,
Chennai.

... Appellant

Vs.

1. P.Indiragandhi
2. P.Santhosh
3. P.Krishnan

... Respondents

CROS. OBJ. NO.31 of 2024

1. P.Indiragandhi
2. Santhosh
3. Krishnan

... Cross Objectors

Vs.

The Managing Director,
State Express Transport Corporation,
No.1, Pallavan Salai,
SETC Chennai Mount Road,
Chennai.

... Respondents

PRAYER in C.M.A. No.699 of 2023: Civil Miscellaneous Appeal filed



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under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 11.03.2022 in M.C.O.P.391/2019 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Chidambaram.

PRAYER in CROS.OBJ. No.31 of 2024

Cross objection filed under Order 41 Rule 22 of the Code of Civil Procedure against the Award dated 11.03.2022 in M.C.O.P.391/2019 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Chidambaram.

Appearance In C.M.A. No.699 of 2023

For Appellant : No appearance
For Respondents : Mrs.Ramya V.Rao

Appearance in Cros. Obj. No. 31 of 2024

For Cross Objectors: Mrs.Ramya V.Rao
For Respondent : No appearance

COMMON JUDGMENT

The appellant in CMA No.699 of 2023 is the Managing Director, State Express Transport Corporation, while the Cross Objectors in Cros.Obj.No.31 of 2024 are the claimants in M.C.O.P.391/2019 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Chidambaram.

2. The Cross Objectors / claimants filed the claim petition under



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Section 166 of the Motor Vehicles Act, seeking compensation of Rs.50,000,000/- for the death of one Pandidurai (husband of the first claimant and father of the second and third claimants), in a road accident that took place on 31.07.2019.

3. The case of the claimants in a nutshell is as follows:

3.1. On 31.07.2019, Pandidurai (deceased) was riding his two wheeler bearing Registration Number TN-31-BU-4858 on Sirgazhi - Chidhambaram road. When he was nearing Kadavachari at about 3.30p.m., a speeding bus bearing Registration Number TN-01-AN-2261, belonging to the Tamil Nadu State Express Transport Corporation, hit the two wheeler, as a result of which, Pandidurai fell down and sustained injuries all over his body. He was immediately rushed to Raja Muthaiya Medical College hospital from where he was referred to JIPMER Hospital, Pondicherry. However he succumbed to injuries on 04.08.2019.

3.2. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN-01-AN-2261 was the cause of the accident and therefore, the appellant, Tamilnadu State



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Express Transport Corporation is liable to pay compensation to them.

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4. The State Express Transport Corporation filed its counter and 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.13,20,000/- to the 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 11.03.2022.

6. Questioning the quantum of compensation awarded by the Tribunal, the appellant, Corporation has filed CMA No.699 of 2023, and the claimants filed Cross Obj. No.31 of 2024 seeking enhancement of compensation.

7. Heard Mrs.Ramya.V.Rao, learned counsel appearing for the claimants. There is no representation for the Tamilnadu State Transport Corporation.



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8. It is seen from the records that the accident took place near Kadavachari bus stop and the eyewitness Raghupathi (P.W.2) had clearly deposed that the driver of the bus was rash and negligent in driving his vehicle and hit the two wheeler. Though it is contended that Pandidurai suddenly crossed the road in his two wheeler unmindful of vehicular traffic, the same has not been substantiated by the Tamilnadu State Express Transport Corporation. The evidence of Venkatachalapathy (R.W.1) the driver of the Tamilnadu State Express Transport Corporation is not sufficient to hold that the rider of the two wheeler was rash and negligent in driving his vehicle. In fact, the bus is a heavy motor vehicle and the driver has a duty to drive his vehicle carefully. He should see on all the sides of the road while moving his vehicle. The manner of the accident suggests that the driver of the bus was rash and negligent and therefore the order of the Tribunal fastening negligence on the part of the driver of the Transport Corporation bus cannot be found fault with.

9. It is stated by the claimants that Pandidurai (deceased) was running a provisional store, earning a sum of Rs.15,000/- per month and that the Tribunal without taking this aspect into consideration had fixed



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the notional income of the deceased only as Rs.9,000/-.

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10. It is pertinent to point out that the accident took place in the year 2019 and it is stated that Pandidurai was running Provisional shop. In the facts and circumstances, this Court is of the opinion that fixing monthly notional income of the deceased as 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 three dependants $1/3^{\text{rd}}$ is deducted towards his personal expenses. The deceased was aged 50 years on the date of accident and the proper multiplier to be adopted in the instant case is 13 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/-

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



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After 1/3 deduction = Rs.12,500/-

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= Rs.12,500/- x 12 x 13

= Rs.19,50,000/-

In addition to that the claimants are entitled to Rs.1,20,000/- (40,000 X 3), Rs.15,000/- and Rs.15,000/- 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.21,00,000/- (19,50,000 + 1,20,000 + 15,000 + 15,000= 21,00,000) 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.19,50,000/-
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.21,00,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.13,20,000/- to Rs.21,00,000/- which would carry interest at the rate of 7.5% per annum.

12. In the result,



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- i. The appeal in C.M.A. No.699 of 2023 is dismissed and the Cross Objection No.31 of 2024 is partly allowed. No costs. Consequently connected civil miscellaneous petition is closed.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.13,20,000/- to Rs.21,00,000/-.
- iii. The appellant, the Tamilnadu State Express Transport Corporation, in C.M.A. No. 699 of 2023 is directed to deposit the compensation amount i.e., Rs.21,00,000/- (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 to the credit of M.C.O.P.391/2019 on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Court, Chidambaram.
- iv. The cross objectors / claimants are not entitled to claim any interest for the period of delay of 222 days in filing the Cross objection.
- v. On such deposit being made, the claimants are at liberty 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.



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Index : Yes/No

Speaking/Non-speaking order
vum

To

1. The Motor Accident Claims Tribunal, II Additional District and Sessions Court, Chidambaram.
2. The Section Officer, V.R. Section, Madras High Court, Chennai.



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R.HEMALATHA, J.
vum

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