



CMA.No.94 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 02.02.2024**

**CORAM:**

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**CMA.No.94 of 2024**

1.N.Jeenath Ammal  
2.Naina Mohammed  
3.Mariyam Beevi

... Appellants

-Vs-

The Managing Director,  
Tamilnadu State Transport Corporation,  
(Villupuram Division-I) Ltd., Villupuram,

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.55 of 2015 dt.10.10.2018 on the file of the Motor Accident Claims Tribunal/Principal District Judge at Cuddalore.

For Appellants : Mr.P.Rajalingam  
for Mrs.Ramya V.Rao  
For Respondent : Ms.J.Tamil Selvi



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### **JUDGMENT**

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 10.10.2018 made in MCOP.No.55 of 2015 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Cuddalore.

2. The appellants are the claimants in MCOP.No.55 of 2015 on the file of *Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore*. They filed the above said claim petition, claiming a sum of **Rs.25,00,000/-** as compensation for the death of one Ziavul Haq, who died in an accident that took place on 26.08.2014.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the respondent Transport Corporation and directed the respondent-Transport Corporation to pay a sum of **Rs.10,13,000/-** as compensation to the appellants.



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4. Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5. The learned counsel for the appellants submitted that the accident occurred on 26.08.2014 and that at the time of the accident, the deceased was 24 years old and was running a provisional shop and earning Rs.20,000/- per month. However, they have not produced any proof of income. Under these circumstances, the Tribunal fixed a sum of Rs.6,500/- as the notional income of the victim of the accident, which is on the lower side. In this regard, he referred to the Judgment of the Hon'ble Apex Court, in the case of *Syed Sadiq Vs. United India Insurance Company*, reported in **2014 (1) TNMAC 459 (SC)**, wherein the Apex Court fixed the notional monthly income even for a vegetable vendor at Rs.6,500/-, who sustained injuries in an accident which occurred in the year 2008, by applying the multiplier based on cost inflation index. In the present case, the accident occurred in the year 2014 and hence, appropriate addition has to be made to the notional income of the victim of the accident. Hence, he submitted that a sum of Rs.9,000/-



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may be fixed as the notional monthly income of the victim of the accident.

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6. On the other hand, the learned counsel for the respondent submitted that there is no dispute with regard to the manner in which the accident occurred or the negligence as fixed by the Tribunal. The learned counsel however, submitted that no proof of income was produced by the appellants and therefore, the notional income fixed by the Tribunal is just and reasonable and the same may be confirmed.

7. The fact and the manner in which the accident occurred is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The only grievance of the appellants is with regard to the quantum of compensation awarded by the Tribunal. In the present case, as noticed above, the deceased was running a provisional shop and aged about 24 years at the time of accident. Hence, this Court, in the light of the law laid down by the Hon'ble Supreme Court in *Syed Sadiq's* case (cited supra) and applying the cost inflation, fixes the notional monthly income of the deceased at Rs.9,000/-. By adding 40% towards future prospects and applying a multiplier of 18 and by deducting 1/2 towards the personal



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expenditure of the victim, the loss of income is arrived at;

$$9,000 + 3,600 (40\%) = 12,600;$$

$$12,600 \times 1/2 \times 18 \times 12 = 13,60,800/-$$

8.The compensation awarded by the Tribunal towards loss of love and affection and funeral expenses is just and fair and the same stands confirmed. The Award of the Tribunal is redetermined as below;

| Sl. No | Description                                     | Amount awarded by Tribunal (Rs)                 | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|--------|-------------------------------------------------|-------------------------------------------------|-----------------------------------|----------------------------------------|
| 1.     | Loss of Love and Affection and Funeral Expenses | 30,000/-                                        | 30,000/-                          | Confirmed                              |
| 2.     | Loss of dependency                              | 9,82,800/-                                      | 13,60,800/-<br>-                  | Enhanced                               |
|        | <b>Grand Total</b>                              | <b>10,12,800/-<br/>Rounded off to 10,13,000</b> | <b>13,90,800/<br/>-</b>           | Enhanced by 3,77,800/-                 |

9.In the result, this Civil Miscellaneous Appeal is partly allowed



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and the compensation awarded by the Tribunal at Rs.10,13,000/- is hereby enhanced to Rs.13,90,800/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Out of the said award amount, The first claimant is entitled to Rs.6,00,000/-, the second claimant is entitled to Rs.5,00,000/- and the third claimant is entitled to Rs.2,90,800/-. The respondent Transport Corporation is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **MCOP.No. 55 of 2015** on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore. On such deposit being made, the Tribunal is directed to transfer the Award amount, directly to the Bank account of the Appellants/Claimants through RTGS, in the proportion as determined by this Court, within a period of **three weeks**. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the



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purpose of granting interest.

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10. Accordingly, the Civil Miscellaneous Petition is partly allowed.

No costs.

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To

1. The Motor Accidents Claims Tribunal,  
Principal District Judge, Cuddalore.
2. The Section Officer,  
V.R. Section, High Court, Madras.

**KRISHNAN RAMASAMY, J.,**



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