



C.M.A.No.2446 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 04.01.2024**

CORAM :

**The Hon'ble Mr. Justice Krishnan Ramasamy**

**C.M.A.No.2446 of 2023**

1. Vimala  
2. Krishnamoorthy  
3. Sathya ... Appellants/Petitioners

Vs.

1. Kumar  
2. The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
37, Mettupalayam Road, Coimbatore 641 043.  
... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgement and Decree dated 20.04.2023 made in MCOP.No.77 of 2019, on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Tiruchengode.

For Appellants : Mr.T.S.Arthanareeswaran  
For R1 : Dispensed with vide order dated 11.10.2023  
For R2 : Mr.M.Murali Vinodh



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## **JUDGEMENT**

Challenging as against the quantum of compensation awarded by the Motor Accident Claims Tribunal, Subordinate Judge Court, Tiruchengode in M.C.O.P.No.77 of 2019 dated 20.04.2023, the claimants are before this Court.

### **2. The brief facts are as follows:-**

The appellants/petitioners are the wife, son and daughter of deceased Muthusamy. On 12.09.2018 at about 12.15 p.m., the first petitioner/appellant's husband was riding a two wheeler towards Namakkal to Tiruchengode Main Road, while so, in front of Sri Iyyappa sound system generator, a bus owned by Tamilnadu State Transport Corporation bearing Registration No. TN-33 N-2698, driven by its driver in a rash and negligent manner, dashed against the deceased, as a result of which, the deceased was thrown away and sustained grievous injuries all over his body and head. Though he was rushed to the KMCH Hospital, Coimbatore and taken treatment, later, he died on 14.09.2018. Thereafter, the appellants have filed a claim petition claiming



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compensation of Rs.25,00,000/-.

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3. The learned counsel for the appellants submitted that the deceased was well at the time of accident and he was earning Rs.15,000/- per month as a agriculturist and milk vendor. However, the Tribunal has taken the monthly income at Rs.6,000/-, which is on the lower side, and the same requires to be reconsidered by this Court as per the law laid down by the Hon'ble Apex Court. Further, the Tribunal has not awarded any amount under the heads of “loss of love and affection” and “transportation” and the same may be awarded. Accordingly, he prays for appropriate enhancement in favour of the appellants.

4. Per contra, the learned counsel appearing for the second respondent/Transport Corporation submitted that taking into consideration the avocation of the deceased, his notional income may be appropriately fixed by this Court.

5. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the second respondent and perused the



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materials available on record.

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6. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellants that though the deceased at the age of 64 years, but was earning a sum of Rs.15,000/- as monthly income, however, without considering the same, the Tribunal had fixed the notional income at Rs.6,000/-per month. Therefore, this Court is of the view that the notional monthly income of the deceased fixed by the Tribunal is very low and it is required to be modified. Applying the ratio laid down by the Hon'ble Apex Court, this Court feels it appropriate to fix notional monthly income at Rs.10,000/- per month. Deducting 1/3<sup>rd</sup> towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.6,667/- per month and the deceased was aged about 64 years at the time of accident as evidenced from the records, adopting the multiplier of 7 as fixed by the Apex Court, the loss of income to the family is arrived at Rs.6,667/-



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x12x7 = Rs.5,60,028/-, which is worked out as follows :-

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| <i>Loss of Income</i>                                                               | <i>Amount in Rs.</i> |
|-------------------------------------------------------------------------------------|----------------------|
| Notional income (Per month)                                                         | 10,000               |
| <b>Less:</b> Personal expenses (1/3 <sup>rd</sup> ) (Rs.10,000/- x 1/3) (Per month) | 3,333                |
|                                                                                     | 6,667                |
| Notional income (per annum) (Rs.6,667/-x 12)                                        | 80,004               |
| Multiplier                                                                          | 7                    |
| <b>Total</b>                                                                        | <b>5,60,028</b>      |

7. A sum of Rs.2,66,715/- granted under the head of "medical expenses" by the Tribunal stands confirmed. The Tribunal has granted a sum of Rs.16,500/- under the heads of "loss of estate" and "funeral expenses", which are excessive and the same are reduced to a sum of Rs.15,000/- each. Further, this Court awarded a sum of Rs.40,000/- each to the appellants 2 and 3 under the head of "loss of love and affection". The amount of Rs.44,000/- awarded under the head of "loss of consortium" by the Tribunal, is excessive and the same is reduced to Rs.40,000/-. No amount has been granted under the head of "transportation". Therefore, this Court is inclined to award a sum of Rs.10,000/- towards "transportation".



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8. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

| <i><b>Heads</b></i>                                     | <i><b>Awarded by the<br/>Tribunal<br/>(Amount in<br/>Rs.)</b></i> | <i><b>Awarded by<br/>this Court<br/>(Amount in<br/>Rs.)</b></i> |
|---------------------------------------------------------|-------------------------------------------------------------------|-----------------------------------------------------------------|
| Loss of Income                                          | <b>3,36,000/-</b>                                                 | <b>5,60,028/-<br/>(enhanced)</b>                                |
| Medical expenses                                        | <b>2,66,715/-</b>                                                 | <b>2,66,715/-</b>                                               |
| Loss of love and affection<br>(to the appellants 2 & 3) | <b>Nil</b>                                                        | <b>80,000/-<br/>(awarded)</b>                                   |
| Loss of consortium                                      | <b>44,000/-</b>                                                   | <b>40,000/-<br/>(reduced)</b>                                   |
| Funeral expenses                                        | <b>16,500/-</b>                                                   | <b>15,000/-<br/>(reduced)</b>                                   |
| Transportation                                          | <b>Nil</b>                                                        | <b>10,000/-</b>                                                 |
| Loss of estate                                          | <b>16,500</b>                                                     | <b>15,000/-<br/>(reduced)</b>                                   |
| <b>Total</b>                                            | <b>6,79,715/-<br/>comes around<br/>6,80,000/-</b>                 | <b>9,86,743/-</b>                                               |

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.6,80,000/-** to **Rs.9,86,743/-**. The second respondent/Transport Corporation is directed to deposit the said amount along with interest at



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the rate of 7% p.a., and cost, 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 M.C.O.P.No.77 of 2019 on the file of Subordinate Judge, Tiruchengode. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the respective bank accounts of the claimants, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimants or application for withdrawal from the claimants, whichever is later. Further, this Court is directed to deposit a sum of Rs.5,86,743/- to the first claimant, who is the wife of the deceased; a sum of Rs.2,00,000/- each to the appellant 2 and 3/Legal heirs of the deceased. The appellants/claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimants. No costs.

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Index : Yes / No  
NCC : Yes / No



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To

1. The Motor Accident Claims Tribunal,  
Subordinate Judge Court,  
Tiruchengode.
2. The Section Officer,  
V.R. Section,  
High Court, Madras.



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**Krishnan Ramasamy,J.,**

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