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CMA.No.2833 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.2833 of 2024

1. D.Selvakumar

2. S.Anith Kumar

3. S.Mano (Minor)

4. S.Liba (Minor)

... Appellants

(Minor appellants 3 and 4 are rep. by their
Father & natural guardian D.Selvakumar)

vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, against the Award dated 07.03.2023 in
M.C.O.P.7646/2018 on the file of the Motor Accident Claims Tribunal, I
Small Causes Court, Chennai.

For Appellants : Mr.Amar D.Pandiya for
Mr.K.Balaji

For Respondent : Mr.M.Murali Vinodh



J U D G M E N T

The appellants are the claimants in M.C.O.P.7646/2018 on the

file of the Motor Accident Claims Tribunal, Chennai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of the M.A.C.T. Rules, seeking compensation of Rs.60,00,000/- for the death of one Pachaiammal (wife of claimant 1; mother of the claimants 2, 3 & 4) in a road accident which happened on 12.05.2018.

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

On 12.05.2018, Pachaiammal (deceased) was attempting to board MTC bus bearing Registration number TN-01-N-8930 on Perungalathur bus stop and at that time, the driver of the bus suddenly moved the bus, as a result of which, Pachaiammal fell down and died on spot.

3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN-01-N-8930 belonging to the Metropolitan Transport Corporation was the cause of the accident and therefore, the respondent is liable to pay compensation to them.



4. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the driver of the bus and awarded compensation of Rs.22,69,000/- 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 07.03.2023.

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

6. Heard Mr.Amar D.Pandiya, learned counsel appearing for the appellants and Mr.M.Murali Vinodh, learned counsel for the respondent.

7. Mr.Amar D.Pandiya, learned counsel appearing for the appellants contended that Pachaammal (deceased) was running a 'Tiffin Center', earning a sum of Rs.500/- per day. However, the Tribunal fixed a sum of Rs.11,000/- as her monthly notional income. He therefore prayed for enhancing the notional monthly income of the deceased.



8. Per contra Mr.M.Murali Vinodh, learned counsel appearing for the respondent, 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.

9. According to the claimants, the deceased, aged 36 years, was running a 'tiffin center', earning a sum of Rs.500/- per day. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the deceased as Rs.11,000/-. It is pertinent to point out that the accident took place in the year 2018. In the facts and circumstances, this Court is of the opinion that fixing notional monthly 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**, 40% is added towards future prospects of the deceased. Since there are four dependents, 1/4th of the deceased's income should be deducted towards her personal expenses. The proper multiplier to be adopted in the instant case is 15 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport*



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Corporation and another reported in ***(2009) 6 SCC 121.***

Calculation :

Notional Income = Rs.15,000/-

after adding 40% Future Prospects = Rs.21,000/-

After 1/4 deduction = Rs.15,750/-

Loss of dependency :

= Rs.15,750/- x 12 x 15

= Rs.28,35,000/-

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.30,25,000/- (28,35,000 + 1,60,000 + 15,000 + 15,000 = 30,25,000) 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.28,35,000 /-
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.30,25,000/-



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10. The compensation awarded by the Tribunal is enhanced to Rs.30,25,000/- which would carry interest at the rate of 7.5% per annum.

11. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.30,25,000/-.
- 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 respondent, Metropolitan Transport Corporation is directed to deposit the enhanced compensation amount i.e., Rs.30,25,000/- (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 / uploading of this order to the credit of M.C.O.P.7646/2018 on the file of the Motor Accident Claims



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Tribunal, Special Sub Judge I, Small Causes Court, Chennai.

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claimant 1 / husband	Rs.6,25,000/- (with interest and costs)
claimant 2 / son	Rs.8,00,000/-
claimant 3 / son	Rs.8,00,000/-
claimant 4 / son	Rs.8,00,000/-

- vi. The share of the minor appellants (claimants 3 and 4) is directed to be deposited in any one of the Nationalised Bank till they attain majority. The claimants 1 and 2 are at liberty to withdraw their respective shares after following due process of law.
- vii. The appellants/claimants are not entitled to claim any interest for the period of delay of 336 days in filing this appeal.

22.10.2024

Index : Yes/No
Speaking order / Non speaking order
Neutral Citation : Yes / No
vum

To

1.The Motor Accidents Claims Tribunal,
Special Sub No.1, Small Causes Court,
Chennai.



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



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R.HEMALATHA, J.

vum

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