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CMA.No.1276 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1276 of 2022 & C.M.P. No.9266 of 2022
and
Cross Objection. No.71 of 2024

C.M.A. No.1276 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Head Office at No.12, Ramakrishna Road,
Salem – 636 007.

... Appellant

vs.

1.Vijaya
2.Periyasamy

... Respondents

CROS. OBJ. NO.71 of 2024

1.Vijaya
2.Periyasamy

...Cross Objectors

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Head Office at No.12, Ramakrishna Road,
Salem – 636 007.

... Respondent



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PRAYER in C.M.A. No.1276 of 2022: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 07.08.2021 in M.C.O.P.1860 of 2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

PRAYER in CROS.OBJ. No.71 of 2024 :

Cross objection filed under Order 41 Rule 22 of the Code of Civil Procedure against the Award dated 07.08.2021 in M.C.O.P.1860 of 2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

Appearance In C.M.A. No.1276 of 2022

For Appellant : Mr. D.Raghu
For Respondents : Mr. R.Navaneetha Krishnan

Appearance in Cross Objection No. 71 of 2024

For Cross Objectors: Mr. R.Navaneetha Krishnan
For Respondent : Mr. D.Raghu

COMMON JUDGMENT

The appellant, the Tamil Nadu State Transport Corporation Limited is the respondent in M.C.O.P.1860 of 2018 on the file of the Motor Accident Claims Tribunal, Salem, while the Cross Objectors are



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the claimants.

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2. The Cross Objectors / claimants filed the claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.40,00,000/- for the death of their son, in a road accident that occurred on 01.06.2018.

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

On 01.6.2018, Raviprasath (since deceased) aged 17 years was travelling as a passenger in a bus bearing Registration Number TN-30-N-0409 on Mecheri – Thoppur main road. The driver of the bus drove the vehicle in a rash and negligent manner and applied sudden brake, as a result of which, Raviprasath was thrown out of the bus and died on spot.

4. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration Number TN-30-N-0409 belonging to the Tamil Nadu State Transport Corporation was the cause of the accident and therefore they are liable to pay compensation to them.



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5. The respondent Tamil Nadu State Transport Corporation Limited resisted the claim petition by filing its counter.

6. The Tribunal, vide its orders dated 07.08.2021, fastened negligence on the part of the driver of the bus bearing Registration Number TN-30-N-0409 and directed the Tamil Nadu State Transport Corporation Limited to pay compensation of Rs.13,61,000/- to the claimants together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

7. Questioning negligence fastened on the part of the driver of the bus and the quantum of compensation awarded by the Tribunal, the Tamil Nadu State Transport Corporation Limited, Salem, has filed this appeal in CMA No.1276 of 2022, and the claimants filed Cross Objection No.71 of 2024 seeking enhancement of compensation.

8. Heard Mr.D.Raghu, learned counsel for the appellant in C.M.A. No.1276 of 2022 and Mr. R.Navaneetha Krishnan, learned



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counsel for the respondents.

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Negligence

9. The FIR (Ex.P1) was registered against the driver of the bus belonging to the Tamil Nadu State Transport Corporation Limited and the police after completing investigation, laid a final report (Ex.P14) against the driver of the bus. The eyewitness account is also clear as to the manner of accident. Nothing useful was suggested to the eyewitness during the course of cross examination to discredit or disbelieve his versions. There is nothing on record to show that Raviprasath (since deceased) also contributed to the accident. In the circumstances, the Tribunal was right in fastening negligence on the part of the driver of the bus.

Quantum

10. In the claim petition, it is contended that the deceased was aged about 17 years and was a student in ITI. In ***Kishan Gopal and another vs. Lala and others*** reported in ***2013 (2) TN MAC 358***, the Hon'ble Supreme Court fixed the notional income of a minor child as



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Rs.30,000/- per annum and granted a sum of Rs.50,000/- under the other

conventional heads. The accident in ***Kishan Gopal and another vs. Lala***

and others (cited supra) happened in the year 1992. Considering the

passage of time and the age of the victim child, fixing Rs.7,000/- per

month as notional income of the deceased would meet the ends of justice.

The proper multiplier to be adopted in the instant case is 18, as per the

decision in ***Sarla Verma and others vs. Delhi Transport Corporation***

and another reported in (2009) 6 SCC 121. Calculation for loss of

dependency is worked out here under.

Calculation :

$$\text{Notional Income} = \text{Rs.7,000/-} \times 12 = \text{Rs.84,000/-}$$

Loss of dependency :

$$= \text{Rs.84,000/-} \times 18$$

$$= \text{Rs.15,12,000/-}$$

In addition to that the claimants are entitled to Rs.80,000/- (40,000 x 2),

Rs.15,000/- and Rs.15,000/- towards "Loss of Consortium, Funeral

Expenses and Loss of Estate" respectively as per the decision in ***National***

Insurance Company Limited Vs. Pranay Sethi and others (cited supra).

Thus, the claimants are entitled to a total compensation of Rs. 16,22,000/-



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(15,12,000 + 80,000 +15,000 +15,000 = 16,22,000) as shown in the following tabular column.

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court (Rs.)</i>
1.	Loss of dependency	15,12,000/-
2.	Loss of consortium	80,000/-
3.	Funeral expenses	15,000/-
4.	Loss of Estate	15,000/-
Total		16,22,000/-

11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.16,22,000/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

- i. The appeal in C.M.A. No.1276 of 2022 is dismissed and Cross Objection No.71 of 2024 is partly allowed. No costs. Consequently connected miscellaneous petition is closed.
- ii. The compensation awarded by the Tribunal is enhanced to



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Rs.16,22,000/-.

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- 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 appellant, the Tamil Nadu State Transport Corporation Limited in C.M.A. No. 1276 of 2022 is directed to deposit the enhanced award amount i.e., Rs.16,22,000/- (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.1860 of 2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.
- v. On such deposit being made, the appellants / 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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vi. The appellants (claimants) are not entitled to claim interest for the period of delay of 155 days in filing cross objection.

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Index : Yes/No

Speaking/Non-speaking order
mtl

To

1. The Motor Accident Claims Tribunal,
Special District Court, Salem.

2. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Head Office at No.12, Ramakrishna Road,
Salem – 636 007.

3. The Section Officer, V.R. Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

mtl

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