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C.M.A.No.3246 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 13.12.2024**

CORAM :

**THE HONOURABLE MR. JUSTICE M. DHANDAPANI**

**C.M.A.No.3246 of 2024**

**and**

**C.M.P.No.27216 of 2024**

The Superintendent of Police,  
Kanchipuram District.

... Appellant

Vs.

1.Govindammal  
2.Perumal  
3.Raji  
4.Gowri

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 20.07.2023 passed in M.C.O.P.No.58 of 2016 on the file of Motor Accident Claims Tribunal and Additional District Judge, Chengalpattu.

For Appellant : Mr.D.Gopal  
Government Advocate

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### **JUDGMENT**

Questioning the negligence as well as the quantum of compensation awarded by the Motor Accident Claims Tribunal,



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Additional District Judge, Chengalpattu in M.C.O.P.No.58 of 2016 dated 20.07.2023, the appellant has filed the present appeal.

2. Brief facts which are necessary for disposal of this appeal are as follows:-

On 3.1.2016 at about 6.10 a.m., the deceased Ellappan and his son Raji were going to pay advance amount for Velikathan Thoppu in Palur Village and they drink tea in Palur Tea Stall. The deceased Ellappan is having cash for a sum of Rs.15,000/- to pay advance, he was doing Thoppu business, firewood and timber supplying to various persons. While they were walking to the battai bus stop on the mud road, the tempo traveller passenger van bearing Regn.No.TN-21-G-0871 belonging the respondent-Police Department, driven by its driver in a rash and negligent manner, dashed against the two persons. After hitting them, the passenger van rolled twice and fell down in the road side ditch. Due to the accident, the said Ellappan died on the spot and his son Raji sustained multiple injuries all over the body. Therefore, the claimants have filed a claim petition claiming a sum of Rs.15,00,000/- for the death of the deceased in the said road accident.



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WEB COPY 3. Before the Tribunal, the petitioners have examined the 1<sup>st</sup> petitioner as P.W.1 and examined an eye-witness one S.Venkatesan as P.W.2 and marked 7 documents viz., Ex.P.1 to Ex.P.7. No witnesses were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal awarded a sum of Rs.11,94,100/- as compensation to the petitioners. Aggrieved by the same, the appellant has preferred the present appeal.

4. Learned Government Advocate appearing for the appellant submitted that, though the accident is of the year 2016, in the absence of any evidence with regard to earning capacity of the deceased, the Tribunal had mechanically fixed the notional income at Rs.10,000/- p.m. and awarded a sum of Rs.9,80,100/- towards loss of income, which is not sustainable and the other heads awarded by the Tribunal is highly excessive, which requires to be re-considered by this Court. Further, the case filed against the driver of the van owned by the appellant ended in acquittal, which was not considered by the Tribunal. Accordingly, he prays for allowing the appeal.



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WEB COPY 5. Heard the learned Government Advocate appearing for the appellant and perused the materials available on record.

6. It is not in dispute that Ex.P.1/FIR has been registered against the driver of the appellant's tempo traveler van only and not against any other person. P.W.2 is an eye-witness to the accident, who had deposed the manner in which the accident had happened and the accident was occurred due to the rash and negligent driving of the driver of the appellant van alone. Though the appellant had claimed that the case registered against the driver of the van ended in acquittal, however the same will not be a conclusive proof to hold that the driver of the appellant van is not responsible for the accident. Further, though the claimants have examined P.W.2 to prove their case, however, in order to disprove the same, the appellant has not examined any eye-witness. Hence, through Ex.P.1/FIR and P.W.2, it is clear that the accident had occurred only due to the rash and negligent driving of the driver of the appellant's van alone. Therefore, this court is not inclined to interfere with the award of the Tribunal with regard to negligence aspect.



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7. In respect of quantum of compensation, this court perused the award of the Tribunal, from which, it is seen that the Tribunal had fixed a sum of Rs.9,000/- as notional income by considering the economic conditions prevailed in the year 2016, which cannot be said to be excessive. By following the guidelines issued by the Hon'ble Apex Court in the cases of *National Insurance Company Limited Vs. Pranay sethi and others* reported in *2017 (16) Supreme Court Cases 680* and *Sarla Verma and Ors. v. DTC & Ors.* reported in *(2009) 6 SCC 121*, the Tribunal had awarded a sum of Rs.9,80,100/- toward loss of earning, which is just and reasonable and the same does not require any interference. Further, this court finds that the compensation awarded under the other heads are also just and reasonable, which does not require any interference. Hence, this court is not inclined to interfere with the award of the Tribunal with regard to quantum of compensation also. Therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed and the impugned award passed by the Tribunal in M.C.O.P.No.58 of 2016, dated 20.07.2023 is confirmed. The appellant is directed to deposit the compensation amount as awarded by the Tribunal to the credit of



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M.C.O.P.No.58 of 2016 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount as apportioned by the Tribunal, directly to the bank account of the respondents/claimants through RTGS within a period of two (2) weeks. There shall be no order as to costs in the present appeal. Consequently, the connected miscellaneous petition is closed.

**13.12.2024**

Index : Yes / No  
Speaking order / Non-speaking order  
Netrual Citation Case : Yes / No  
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To

The Motor Accident Claims Tribunal, Additional District Judge,  
Chengalpattu.



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**M.DHANDAPANI, J.**

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