



CMA.No.2958 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2958 of 2023

1. Sathiya

2. Minor Subhashini

3. Minor Suwathi

(Minors rep. by their mother,
Sathiya 1st petitioner)

4. Anbazhagi

... Appellants

vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Vazhudareddy, Villupuram

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 01.07.2023 in M.C.O.P.No.211/2022 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Cuddalore at Vridhachalam.

For Appellants : Mr.S.Udhayakumar

For Respondent : Mr.T.Chandrasekaran

J U D G M E N T

The appellants are the claimants in M.C.O.P.No.211/2022 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Cuddalore at Vridhachalam. They filed the claim petition under



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Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.50,00,000/- for the death of one Suresh (husband of the first claimant, father of the claimants 2 and 3 and son of claimant 4) in a road accident which happened on 19.06.2022.

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

On 19.06.2022, Suresh (deceased) was walking along Ulundurpet - Vridhachalam main road. When he was nearing Sriram Nagar bus stop, a bus bearing registration number TN 32 N 4563 belonging to the respondent Corporation hit him from behind, as a result of which, Suresh (deceased) 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 32 N 4563 belonging to the respondent 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, awarded a compensation of Rs.18,69,400/- 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 01.07.2023.



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

6. Heard Mr.S.Udhayakumar, learned counsel appearing for the appellants and Mr.T.Chandrasekaran, learned counsel for the respondent.

7. Mr.S.Udhayakumar, learned counsel appearing for the appellants contended that the deceased was aged only 33 years and was working in 'Raja Steel and Iron shop' earning a sum of Rs.21,000/- per month. However, the Tribunal fixed a very meagre sum of Rs.9,000/- as his monthly notional income. He therefore prayed for enhancing the income of the deceased. He further contended that the Tribunal has awarded a sum of Rs.40,000/- only towards consortium, when there are four dependents.

8. Per contra, Mr.T.Chandrasekaran, 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. In the claim petition, it is contended that the deceased was aged about 33 years and was earning a sum of Rs.21,000/- per month. The Tribunal fixed the notional income of the deceased as Rs.9,000/-. It is pertinent to point out that the accident took place in the year 2022 and in the facts and circumstances, this Court is of the opinion that fixing notional monthly income of the deceased at Rs.16,000/- 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, 1/4rd of the deceased's income should be deducted towards his personal expenses. The deceased was aged 33 years on the date of the accident and the proper multiplier to be adopted in the instant case is 16 as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another* reported in (2009) 6 SCC 121.



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WEB CC Calculation :

Notional Income = Rs.16,000/-

after adding 40% Future Prospects = Rs.22,400/-

After 1/4 deduction = Rs.16,800/-

Loss of dependency :

= Rs.16,800/- x 12 x 16

= Rs.32,25,600/-

In addition to that the claimants are entitled to Rs.1,76,000/- (44,000/- x 4)/-, Rs.16,500/- and Rs.16,500/- 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.34,34,600/- (32,25,600 + 1,76,000 + 16,500 + 16,500 = 34,34,600) which is extracted here under:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs. 32,25,600 /-
2.	Loss of consortium (Rs.44,000/- x 4)	Rs.1,76,000/-
3.	Funeral expenses	Rs.16,500/-
4.	Loss of Estate	Rs.16,500/-



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<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
	Total	Rs.34,34,600/-

10. The compensation awarded by the Tribunal is enhanced from Rs.18,69,400/- to Rs.34,34,600/- which would carry interest at the rate of 7.5% per annum.

11. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.18,69,400/- to Rs.34,34,600/-.
- 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, the Metropolitan Transport Corporation Limited, is directed to deposit the enhanced compensation amount i.e., Rs.34,34,600/- (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 to the credit of



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M.C.O.P.No.211/2022 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Cuddalore at Vridhachalam.

- v. On such deposit being made, the appellants 1 & 4 / 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. The share of the minor appellants 2 and 3 are directed to be deposited in any one of the Nationalised Bank till they attain majority. The 1st appellant being the mother of the appellants 2 and 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minors. No costs.

13.08.2024

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

R.HEMALATHA, J.

vum

To

1.The Motor Accidents Claims Tribunal,
III Additional District Judge, Cuddalore
Vridhachalam .

2. The Managing Director,



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Tamil Nadu State Transport Corporation Ltd.,
Vazhudareddy, Villupuram .

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

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