



*C.M.A(MD)No.954 of 2017*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2024**

CORAM

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**C.M.A(MD)No.954 of 2017**

1.Palaniappan (Died)

2.Nallammal

... Appellants/Petitioners

3.Kathalingam (Died)

4.Kesavan

5.Vijayalakshmi

6.Valli

7.Abinaya

8.Sundarraaj

... Appellants 3 to 8

*(Appellants 3 to 5 are brought on record as  
LRs of deceased first appellant, vide Court  
order, dated 31.08.2018 made in  
C.M.P(MD)No.3419 of 2018 in  
C.M.A(MD)No.954 of 2017)*

*(Appellants 6 to 8 are brought on record as  
LRs of the deceased third appellant vide  
Court order, dated 17.04.2024 made in  
C.M.P(MD)No.5784 of 2024 in  
C.M.A(MD)No.954 of 2017)*

Vs.



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1.The Managing Director,  
Tamil Nadu State Transport Corporation  
Kumbakonam Limited,  
Tiruchirappalli-620 001.

2.Palanivel

3.The Branch Manager,  
Sriram General Insurance Company Limited,  
Karaikudi. ... Respondents/Respondents

*(Respondents 2 and 3 given up, since they  
are ex parte in Lower Court)*

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree, dated 18.11.2014 made in M.C.O.P.No.135 of 2011 on the file of the Motor Accident Claims Tribunal (District Court), Sivagangai, in so far as they relate to quantum of compensation granted.

For Appellants : Mr.S.N.Mohan

For R-1 : Mr.P.Prabhakaran

R-2 & R-3 : Given up (Vide EB)

### **JUDGMENT**

The instant appeal has been filed by the claimants challenging the award passed in M.C.O.P.No.135 of 2011 on the file of the Motor Accident Claims Tribunal / District Court, Sivagangai, seeking enhancement of compensation.



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**2.** According to the claimants, the deceased was 30 years old and he was working as a Supervisor in a Granite Factory, earning a sum of Rs.10,000/- per month. The claimants have sought for a compensation of Rs.20,00,000/-.

**3.** The Tribunal found that the salary certificate produced by the claimants are not believable and proceeded to fix the notional income at Rs.10,000/- per month. The Tribunal has proceeded to apply the multiplier based upon the age of the claimant. The Tribunal has proceeded to ultimately award a sum of Rs.6,00,000/- as compensation. Challenging the said award, the present appeal has been filed.

**4.** According to the learned Counsel appearing for the appellant, the Tribunal has not properly added future prospects to the notional income and the Tribunal has erroneously taken into consideration, the age of the claimant to fix the correct multiplier. Hence, the learned Counsel appearing for the claimant sought enhancement of compensation.



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**5.** Per contra, the learned Counsel appearing for the respondent herein has contended that the Tribunal has taken into consideration the notional monthly income at Rs.10,000/-, which is on the higher side and therefore, there is no scope for any further enhancement. He prayed for sustaining the award passed by the Tribunal.

**6.** I have carefully considered the submissions made on either side and perused the materials available on record.

**7.** As per Exhibit P.2 post mortem report, age of the deceased person is 32 years. Considering the fact that the accident has taken place in the year 2010, the notional income could be fixed at Rs.6,000/-. Admittedly, the deceased was working in a private Company and considering his age as 32, 40% of future prospects could be added. The correct multiplier for the age of 32 years is 16. The deceased being a bachelor, 50% of the income should be deducted towards personal expenses.

**8.** Considering the above said facts, the award of the Tribunal is re-assessed as follows:



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| S.No. | Heads                                                                                                                                                                                                                                                                    | Compensation         |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| 01.   | Monthly notional income : Rs.6,000/-<br>(+) 40% towards future prospects (6000 X 40%) : Rs.2,400/-<br>-----<br>Total notional income : Rs.8,400/-<br><br>(-) After 50% deduction towards personal expenses : Rs.4,200/-<br><br>Therefore, Loss of Income 4,200 X 16 X 12 | Rs.8,06,400/-        |
| 02.   | Loss of love and affection 40,000 X 2                                                                                                                                                                                                                                    | Rs.80,000/-          |
| 03.   | Transport Charges                                                                                                                                                                                                                                                        | Rs.10,000/-          |
| 04.   | Funeral Expenses                                                                                                                                                                                                                                                         | Rs.15,000/-          |
| 05.   | Loss of estate                                                                                                                                                                                                                                                           | Rs.15,000/-          |
|       | Total                                                                                                                                                                                                                                                                    | <b>Rs.9,26,400/-</b> |

9. In view of the above said deliberations, the award of the Tribunal is enhanced from Rs.6,00,000/- (Rupees Six Lakhs only) to **Rs.9,26,400/- (Rupees Nine Lakhs Twenty Six Thousand and Four Hundred only)**. The award amount shall carry 7.5% interest from the date of the claim petition excluding the period of default, if any. The Transport Corporation is directed to deposit the amount, within a period of twelve (12) weeks from the date of receipt of a copy of the judgment. On such deposit, the second appellant is entitled to 50% of the award amount along with accrued interest and proportionate cost. The



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appellants 4 to 8 are each entitled to 10% of the award amount along with accrued interest and proportionate cost.

**10.** The appeal stands partly allowed to the extent as stated above.

There shall be no order as to costs.

**24.07.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes  
BTR

To

1.The Motor Accident Claims Tribunal  
(District Court),  
Sivagangai.

2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.VIJAYAKUMAR, J.**

BTR

**Judgment made in**  
**C.M.A(MD)No.954 of 2017**

**24.07.2024**