



C.M.A.No.130 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.130 of 2025

1.V.Gajalakshmi
2.K.Monisha
3.V.Balasubramani
Radhabai (Died)
(Amended as per M.P.No.1/23 dt. 17.07.2023) ... Appellants

Vs.

The Managing Director,
State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai – 600 002. ... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, pleaded to enhance the common order passed by IV Judge of Small Causes Court, Chennai, Motor Accident Claims Tribunal, dated 01.02.2024 made in M.A.C.T.O.P.No.4945 of 2018 from Rs.10,41,700/- to Rs.15,41,700/- with interest, cost.

For Appellants : Mr.K.V.Muthu Visakan

For Respondent : Mr.S.S.Santhosh Kumar



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JUDGMENT

WEB COPY The above appeal is filed by the claimants seeking an enhancement of the compensation awarded by the Motor Accident Claims Tribunal, (In the IV Court of Small Causes) Chennai in M.C.O.P.No.4945 of 2018 dated 01.02.2024 for the death of the deceased Varadhan.

2. The appellants are the wife, daughter, son and mother of the deceased Varadhan. On 07.05.2018 at about 14.35 hours, the deceased was travelling as a pillion rider in the motorcycle bearing Regn.No.TN-19-T-7131 ridden by one Kamalakanna at G.S.T. Road, Anna Nagar, Thenpakkam, Achirapakkam P.S.Limit, Kancheepuram District proceeding towards Kongarai Village. At that time, an S.E.T.C. bus bearing Regn.No.TN-01-N-4952 proceeding in the same direction, was driven by its driver in a very rash and negligent manner and dashed against the motorcycle, thereby, they were thrown out and deceased pillion rider died. Therefore, the claimants have filed a claim petition claiming for a sum of Rs.35,00,000/- as compensation before the Tribunal in M.C.O.P.No.4945 of 2018 for the death of the deceased.



WEB COPY

3. Before the Tribunal, on the side of the appellants, two witnesses were examined viz., P.W.1 and P.W.2 and 17 documents were marked viz., Ex.P.1 to Ex.P.17. On the side of the respondents, one witness was examined viz., R.W.1 however, no documents were marked. After adjudication, the Tribunal awarded a sum of Rs.10,41,700/- as compensation to the appellants. Not satisfied with the same, the appellants have preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellants submitted that the monthly income fixed by the Tribunal is on the lower side, which requires to be re-considered by this Court. He further submitted that the compensation awarded under the other heads are on the lower side, which requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellants.

5. Per contra, learned counsel appearing for the respondent/Transport Corporation submitted that, by considering all the oral and documentary evidence, the Tribunal has awarded just and reasonable compensation under



various heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants is with regard to the quantum of compensation awarded by the Tribunal. To compute the income under the head loss of income, no document in support of proof of the income of the deceased has been filed. However, it is claimed by the appellants that, at the time of accident, the deceased was agriculture worker and milk vendor and earned a sum of Rs.1,000/- per day. As per the decision of the Hon'ble Apex Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459**, notional income of a vegetable vendor is fixed at Rs.6,500/-, where income of the deceased is not proved through documentary evidence.



However, the Tribunal had fixed a sum of Rs.11,000/- as notional income, which is on the lower side. Hence, by applying the ratio laid down by the Hon'ble Supreme Court in *Syed Sadiq's* case, fixing a notional income of Rs.16,000/- and adding future prospects at 10%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in *2017 (16) Supreme Court Cases 680*, the total income per month is quantified at Rs.17,600/-. Deducting $1/3^{\text{rd}}$ towards the personal expenses of the deceased, the income of the deceased is arrived at Rs.11,733/- per month and the deceased being aged about 57 years, as evidenced from the records, adopting the multiplier of 9 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in *(2009) 6 SCC 121*, the loss of income to the family is arrived at Rs.11,733/- * 12 * 9 = Rs.12,67,164/-, which is worked out as follows :-

Loss of Income	Amount (in Rs.)
Notional income (Per month)	16,000
Add: Future Prospects (Rs.16,000 x 10%) (Per month)	1,600
	17,600
Less: Personal expenses ($1/3^{\text{rd}}$) (Rs.17,600/- x $1/3^{\text{rd}}$) (Per month)	5866.6
Rounded off to	5867
	11,733



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Loss of Income	Amount (in Rs.)
Notional income (per annum) (Rs.11,733/- x 12)	1,40,796
Multiplier	9
Total	12,67,164

8. Further, the Tribunal had awarded a sum of Rs.1,32,000/- towards loss of consortium; Rs.16,500/- towards loss of estate; Rs.16,500/- towards funeral expenses and Rs.5,500/- towards transportation. This Court finds that the compensation awarded under the above heads are just and reasonable and the same is confirmed.

9. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

S. No.	Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
1	Loss of dependency	8,71,200/-	12,67,164/- (enhanced)
2	Loss of consortium	1,32,000/-	1,32,000/-
3	Loss of estate	16,500/-	16,500/-
4	Funeral expenses	16,500/-	16,500/-
5	Transportation expenses	5,500/-	5,500/-
	Total	10,41,700/-	14,37,664/-



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WEB COPY10. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from **Rs.10,41,700/-** to **Rs.14,37,664/-**. The respondent-Transport Corporation is directed to deposit the said amount to the credit of M.C.O.P.No.4945 of 2018 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 (6) weeks from the date of receipt of a copy of this judgment. The above compensation amount shall be apportioned among the appellants as per the apportionment of the Tribunal. On such deposit being made, the Tribunal is directed to transfer the share of the appellants directly to their bank accounts, through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellants. The appellants are directed to pay necessary additional Court fee on the enhanced compensation amount. No costs.

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Speaking Order : Yes / No

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Neutral Citation Case : Yes / No

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M.DHANDAPANI,J.,

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To

The Motor Accident Claims Tribunal / In the IV Court of Small Causes,
Chennai.

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