



CMA.No.573 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 27.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.573 of 2023

- 1.C.Meenakshi
- 2.S.Gunasundari
- 3.G.Savithiri

... Appellants

Vs.

- 1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
SETC., Salem Division, Salem.

2.Pattammal (Died)

3.Kannan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 29.11.2017 in MCOP.No.412 of 2015 on the file of the Motor Accident Claims Tribunal, District Court - II, Kanchipuram.

For Appellants : Mr.C.Prabakaran

For 1st Respondent : Mr.D.Nitin



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JUDGMENT

Not satisfied with the quantum of compensation granted by the Motor Accident Claims Tribunal, the claimants have come up by way of this appeal.

2. According to the appellants/ claimants, the husband of the 1st claimant and the father of the other claimants viz., Chinathambi died in a road accident that had taken place on 10.06.2007. On that day while he was returning to his house by walk on the left hand side of the road, the bus belonged to the 1st respondent Corporation came in a rash and negligent manner and hit him from the back side. As a result of the accident, apart from injuries all over the body, he suffered head injury and died on the spot. Therefore, the claimants filed Motor Accidents Claim Petition seeking a compensation of Rs.15,00,000/-. The Tribunal granted a compensation of Rs.8,63,800/-. Not satisfied with the quantum of compensation, the claimants have filed this appeal seeking enhancement.



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3. It is stated that the 2nd respondent herein who is the mother of the deceased died pending claim petition. The 3rd respondent is the driver of the offending vehicle owned by the 1st respondent Corporation.

4. Both the learned counsel for the appellants as well as the 1st respondent Corporation have not advanced any arguments on the question of negligence as well as liability. Therefore, the facts necessary for deciding negligence and liability have not been discussed in this judgment.

5. The learned counsel for the appellants would submit that the accident had occurred on 10.06.2007 and the amount of Rs.4,500/- fixed by the Tribunal as notional income is very much on the lower side and the same requires enhancement.

6. The learned counsel appearing for the 1st respondent Corporation would submit that the claimants have not produced any acceptable evidence to show the income of the deceased and hence the Tribunal was justified in fixing the notional income at Rs.4,500/- per month.



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7. In the claim petition it was avered by the claimants that the deceased was aged about 42 years and he was engaged in agricultural coolie work at the relevant time. However they have not produced any documents to prove the avocation or income of the deceased. Even if documentary evidence has not been produced to prove the income, the Court can fix the notional income by taking into consideration the facts and circumstances of the case.

8. In the case on hand, the accident occurred on 10.06.2007. If the guidelines issued by the Division Bench of this Court in *Andal and others vs. Avinav Kannan and others* reported in *MANU/TN/6368/2018* are applied for the year 2007, we can fix the notional income at Rs.6,500/-. Accordingly, this Court is inclined to fix the notional income at Rs.6,500/-. As per Ex.P4 death certificate and Ex.P2 Post-mortem certificate the age of the deceased was fixed by the Tribunal at 42 years. Therefore, the claimants are entitled to 25% enhancement as future prospects. The applicable multiplier is '14'. Therefore, the loss of dependency is fixed at Rs.10,23,750/- ($\text{Rs.6,500/-} \times 1.25 \times 12 \times 14 \times \frac{3}{4} = \text{Rs.10,23,750/-}$).



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WEB COPY 9. The Tribunal awarded Rs.70,000/- towards loss of consortium, loss of estate and funeral expenses. As per the law laid down by *National Insurance Company Limited vs. Pranay Sethi and others* reported in (2017) 16 SCC 680, the 1st claimant wife is entitled to Rs.40,000/- towards loss of consortium, the claimants 2 and 3, who are the daughters of the deceased are entitled to Rs.80,000/- (Rs.40,000/- each) towards loss of love and affection. Apart from the above said amounts, the claimants are entitled to Rs.15,000/- each towards loss of estate and funeral expenses. In all the claimants are entitled to Rs.11,73,750/-.

Heads	Amount awarded before the Tribunal	Amount awarded by this Court
Loss of dependency	Rs.7,93,800/-	Rs.10,23,750/-
Loss of Consortium,	Rs.70,000/-	40,000/- +
Loss of Love and Affection		80,000/- +
Loss of Estate and		15,000/- +
Funeral Expenses		15,000/-
Grand Total	Rs.8,63,800/-	Rs.11,73,750/-



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WEB COPY 10. Accordingly, this Civil Miscellaneous Appeal is **allowed** and the compensation granted by the Tribunal is enhanced to Rs.11,73,750/- from Rs.8,63,800/-. The appellants are entitled to interest at the rate of 7.5% per annum (excluding the delay period of 695 days as per order in C.M.P.No.244 of 2022) from the date of filing of claim petition till the date of realization. The appellants/ claimants are directed to pay the additional court fee. No costs.

11. The 1st respondent Corporation is directed to deposit the enhanced award amount together with interest within a period of six (6) weeks from the date of receipt of a copy of this order to the credit of MCOP.No.412 of 2015 on the file of the Motor Accident Claims Tribunal, District Court - II, Kanchipuram. The appellants are permitted to withdraw the deposited amount on making formal application before the Tribunal.

27.02.2025

Index : Yes/No
Speaking order : Yes/No



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Neutral Citation : Yes/No

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To

- 1.The Motor Accident Claims Tribunal,
District Court - II, Kanchipuram.
- 2.The Section Officer
VR Section, High Court, Madras.



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S.SOUNTHAR, J.

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