



CMA.No.650 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 05.03.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CMA No.650 of 2025**

1. P.Radha  
2. P.Vignesh

... Appellants

**Vs.**

The Managing Director,  
Metropolitan Transport Corporation Ltd.,  
Pallavan House, Anna Salai,  
Chennai 600 002.

... Respondent

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the award amount made in MCOP No.3866 of 2021 dated 03.02.2024 on the file of the Special Subordinate Judge No.II, Motor Accident Claims Tribunal,Court of Small Causes, Chennai.

For appellants : Mr.S.Ravikumar

For Respondent : Mr.M.Murali Vinoth



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### **JUDGMENT**

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal.

2. The son of first claimant and brother of second claimant died in a road accident that had occurred on 16.08.2021. According to the claimants, the deceased was proceeding in his motorcycle from South to North direction and while he was waiting for the signal to turn west at the entrance of Murasolimaran bridge, Madhavaram high Road, Perambur, a bus belonging to the respondent Corporation came in a rash and negligent manner and dashed against the two wheeler of the deceased. As a result of accident, the deceased fell down from his vehicle and died. Hence, the claimants filed a claim petition seeking compensation of Rs.30,00,000/-. The Tribunal based on the evidence available on record, awarded a compensation of Rs.19,60,000/-. Not satisfied with the quantum of compensation the claimants have come before this court.



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3. The learned counsel for the appellants and the respondent have not advanced any arguments on the question of negligence as well as the liability and hence, the facts necessary for deciding those questions are not discussed in the appeal.

4. The learned counsel for the appellants would submit that the accident had occurred in the year 2021, however the Tribunal fixed a very meager amount of Rs.12,500/- as notional income and the same requires enhancement. He further submits that the second claimant is a college going student and therefore, he was depending on the income of the deceased. However, the Tribunal has not awarded any amount to him under the head loss of love and affection.

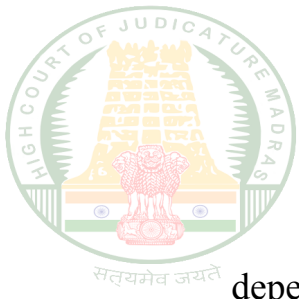
5. The learned counsel for the respondent would submit that the claimants have not produced any document to prove the avocation and income of the deceased and hence, the Tribunal was justified in fixing notional income at Rs.12,500/-.



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6. In the claim petition, it was averred by the claimants that at the time of accident, the deceased was working as system service man in a data service company and was earning a sum of Rs.25,000/- per month. However, to prove the avocation and income of the deceased, the claimants have not produced any documentary evidence. Even if there is no documentary evidence, considering the facts and circumstances of the case and year of accident, this court can fix notional income. In the case on hand, the accident had occurred in the year 2021 and taking into consideration the cost of living, a sum of Rs.18,000/- is fixed as notional income of the deceased. As per the law laid down by the Hon'ble Supreme in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157( Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017)* the claimants are entitled to 40% enhancement towards future prospects. Considering the pan card Ex.P5, the age of the deceased was fixed at 24 years by the Tribunal and the same was not disputed by the respondent/ insurance company. Hence, proper multiplier to be adopted in this case is 18. Further, the deceased died as bachelor and hence half of the amount should be deducted towards his personal expenses. Accordingly, loss of



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dependency is fixed at Rs.27,21,600/-. (18,000 x 1.4 x 12 x 18 x 1/2)

7. The Tribunal awarded a sum of Rs.40,000/- towards loss of consortium to the first claimant. As per the ratio laid down in ***Pranay Sethi case*** cited supra, both the claimants are entitled to Rs.40,000/- each towards loss of filial consortium and loss of love affection along with 10% enhancement, because accident had occurred after three years from the date of decision of ***Pranay Sethi Case*** i.e. 31.10.2017. Accordingly, a sum of Rs.44,000/-each is awarded towards loss of filial consortium to the first claimant and loss of love and affection to the second claimant. Further as per the decision in ***Pranay sethi case***, the compensation of Rs.15,000/- each under the heads loss of estate and funeral expenses also should be enhanced by 10%.

8. Accordingly, the compensation awarded by the Tribunal is revised as under:

| Sl. No | Description | Amount awarded by Tribunal | Amount awarded by this Court | Award confirmed or enhanced or |
|--------|-------------|----------------------------|------------------------------|--------------------------------|
|--------|-------------|----------------------------|------------------------------|--------------------------------|



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|    |                                                   | (Rs)             | (Rs)             | granted              |
|----|---------------------------------------------------|------------------|------------------|----------------------|
| 1. | Loss of Dependency                                | 18,90,000        | 27,21,600        | enhanced             |
| 2. | Loss of filial consortium to first claimant       | 40,000           | 44,000           | enhanced             |
| 3. | Loss of love and affection to the second claimant | --               | 44,000           | granted              |
| 5. | Loss of estate                                    | 15,000           | 16,500           | enhanced             |
| 6. | Funeral expenses                                  | 15,000           | 16,500           | enhanced             |
|    | <b>Total</b>                                      | <b>19,60,000</b> | <b>28,42,600</b> | enhanced by 8,82,600 |

9. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.19,60,000/- is hereby enhanced to **Rs.28,42,600** together with interest at 7.5% per annum from the date of petition till the date of deposit.

10. The share of the second claimant (brother of the deceased) is fixed at Rs.44,000/- ( conventional damages). The first claimant is entitled to withdraw the balance of award amount.

11. The respondent Corporation is directed to deposit the compensation amount now determined by this Court, along with



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interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment.

On such deposit, the claimants are permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn by making formal application before the Tribunal. No costs.

**05.03.2025**

Index : Yes/No  
Speaking order : Yes/No  
Neutral citation : Yes/No  
mst

**To**

1. Special Subordinate Judge-II  
Court of Small Causes, Chennai.
2. The Section Officer,  
V.R.Section, Madras High Court.



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**S.SOUNTCHAR, J.**

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