



CMA.No.412 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTAR

CMA No.412 of 2025

1.G.Manoharan
2. Kanishika

... Appellants

Vs.

The Managing Director
Metropolitan Transport Corporation Limited
Pallavan House
Chennai-600 002

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to enhance the compensation awarded in judgment and decree dated 30.06.2023 made in MCOP.No.4684 of 2016 on the file of the Motor Accidents Claims Tribunal/learned II Judge, Court of Small Causes, Chennai by allowing this Civil Miscellaneous Appeal.

For appellant : Mr.N.Manoharan

For respondents : Mr.Anton Dhanasekran

JUDGMENT

Aggrieved by the quantum of compensation granted by the Motor Accident Claims Tribunal, the dependants of the deceased has come before this court by way of this appeal.



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2. It is not in dispute that the wife of the first claimant and mother of the second claimant died during a road accident that had taken place on 23.09.2015. Both the learned counsel for the appellants as well as the respondent corporation have not advanced any arguments on the question of negligence and liability. Therefore, the facts necessary for considering those questions are not discussed in this appeal.

3. Based on the evidence available on record, the Tribunal granted a compensation of Rs.7,01,800/- Not satisfied with the quantum of compensation, the claimants have come before this court by way of this appeal.

4. The learned counsel for the appellants submitted that the accident had occurred on 23.09.2015 and the deceased was earning considerable amount by taking tuition classes. The Tribunal, without taking into consideration the date of accident, erroneously fixed the



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WEB COPY income of the deceased as Rs.6,000/- and the same is very much on the lower side.

5. The learned counsel for the respondent corporation submitted that the claimants have not produced any documentary evidence to support their case that the deceased was taking tuition classes and earning Rs.12,000/- per month and hence, the Tribunal was justified in fixing only Rs.6,000/-.

6. It is settled law that even assuming that there is no proof for the income and avocation of the deceased, taking into consideration the year of accident and the cost of living, the Tribunal has to fix the notional income. If we apply the law laid down in *Andal and Others Vs Avinav Kannan and another* reported in *MANU/TN/6368/2018*, taking into consideration the date of accident, the notional income should be fixed at Rs.12,800/-. In the case on hand, the claimants, in the claim petition, claimed only Rs.12,000/-. Taking into consideration the accident had occurred in the year 2015, this court comes to the



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conclusion that the notional income of the deceased shall be fixed at Rs.12,000/- per month. Though the claimants in claim petition mentioned the age of the deceased as 54 years and the Tribunal simply adopted the same as correct, as per Ex.P3, death certificate and Ex.P4, Post Mortem Certificate, the age of the deceased is fixed at 56. In that case, the applicable multiplier is only '9'. Therefore, the claimants are entitled to Rs.9,50,400/- under the head 'loss of dependency' is calculated as follows:-

$$\text{Rs.12,000} \times 1.1 \times 12 \times 9 \times 2/3 = \text{Rs.9,50,400/-}$$

(Multiplier 1.1 is used towards 10% future prospects)

7. The claimants 1 and 2 are entitled to Rs.40,000/- each towards 'loss of consortium' as per the law settled in *Pranay Sethi* case. The Tribunal, without taking into consideration that accident had occurred in the year 2015 wrongly applied 10% enhancement. Therefore, the amount awarded under the head loss of consortium shall be fixed at Rs.80,000/-. Likewise, the amount awarded under the heads 'loss of estate', funeral expenses shall be Rs.15,000/- each. Thus, the



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WEB COPY compensation awarded by the Tribunal is enhanced from Rs.7,01,800/-

to Rs.10,60,400/-. The break-up is as follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	5,80,800/-	9,50,400/-	Enhanced
2.	Loss of consortium	88,000/-	80,000/-	Reduced
3.	Loss of Estate	16,500/-	15,000 /-	Reduced
4.	Funeral expenses	16,500/-	15,000/-	Reduced
	Total	7,01,800/-	10,60,400/- -	Enhanced by Rs.3,58,600/-

8. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,01,800/- is hereby enhanced to Rs.10,60,400/- The appellants/claimants are entitled to interest at the rate of 7.5% per annum (excluding the delay period of 72 days as per order in CMP.No.1755 of 2025) from the date of filing of the claim petition till the date of realization. The respondent corporation is directed to



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deposit the enhanced sum along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of copy of this judgment. On deposit of the enhanced sum, the appellants/claimants are entitled to withdraw the same along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

17.02.2025

Index: Yes/No
Internet: Yes/No
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To

1. Motor Accident Claims Tribunal,
The learned II Judge, Court of Small Causes, Chennai
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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