



C.M.A.Nos.2956 and 2958 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.Nos.2956 and 2958 of 2024

1.T.Pargunavathi

2.Minor M.Thangamani

3.Minor M.Mugesh

4.Minor M.Nithish

... Appellants (in both CMAs)

(Minors rep by their guardian 1st Appellant)

VS.

The Managing Director,
The Tamilnadu State Express Transport Corporation,
Pallavan Salai,
Chennai-2.

... Respondent (in both CMAs)

COMMON PRAYER: Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, to enhance the award against the order dated 28.04.2023 made in M.A.C.T.O.P.Nos.2283 and 2282 of 2017 on the file of the Motor Accident Claims Tribunal, Cuddalore, Special Sub Court, Cuddalore.



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For Appellants : Mr.F.Terry Chella Raja
(in both CMAs)

For Respondent : No Appearance
(in both CMAs)

COMMON JUDGMENT

These two Civil Miscellaneous Appeals have been filed by the claimants challenging the common award passed by the Motor Accident Claims Tribunal, Special Sub Court, Cuddalore in M.C.O.P.Nos.2283 and 2282 of 2017, dated 28.04.2023.

2. The above said Original Petitions were filed for death of husband and wife in a road accident namely N.Murugavel and M.Sharmila.

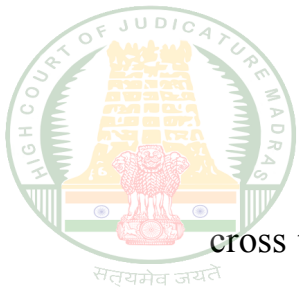
3. Since both the original petitions are arising out of same accident, they are taken up together for disposal. Both the appeals are filed by the dependents of the deceased persons seeking enhancement of compensation.

4. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.



WEB COPY 5. It is the case of the claimants that on 11.02.2017, the son of the 1st claimant in both the original petitions and father of the claimants 2 to 4 in both the original petitions namely N.Murugavel was riding his two wheeler bearing Registration No.PY-05-B-1680 in East Coast Road near Marakkanam, having his wife-M.Sharmila, daughter-in-law of the 1st claimant and mother of the claimants 2 to 4. When deceased persons came in the two wheeler near Boomishwaran Kovil, the bus bearing Registration No.TN-01-AN-0435 belonged to the Respondent/Transport Corporation came in a rash and negligent manner and dashed against the two wheeler. As a result of the impact of the collision, both the riders of the two wheeler were thrown away from the vehicle. The driver of the two wheeler died on the spot and the pillion rider, his wife sustained grievous injuries and died in hospital after 9 days. Therefore, the above said original petitions were filed seeking compensation of Rs.75,00,000/- and Rs.25,00,000/- respectively.

6. The claim petitions were resisted by the Respondent/Transport Corporation on the ground that the rider of the two wheeler attempted to



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cross the road without any signal in a rash and negligent manner and hence,
the accident had occurred only due to his negligence.

7. Before the Tribunal, the 1st appellant/1st claimant was examined as PW.1 in M.C.O.P.No.2283 of 2017 and 1st appellant/1st claimant was examined as PW.2 in M.C.O.P.No.2282 of 2017 and yet another witness was examined as PW.3. On behalf of the claimants, 10 documents were marked as Exs.P1 to P10. On behalf of the respondent-Transport Corporation, one Gopu-Driver of the Transport Corporation was examined as RW.1 and no documents were marked.

8. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the negligent driving of the bus by the Respondent/Corporation's driver. The compensation payable to the claimants in C.M.A.No.2956 of 2024(husband) and claimants in C.M.A.No.2958 of 2024(wife) were quantified at Rs.26,97,800/- and Rs.25,97,000/- respectively. Not satisfied with the quantum of compensation, the claimants have come before this Court.



WEB COPY 9. Though notice is served on the Respondent/Transport Corporation as early as 26.11.2024 and the name of the respondent is printed in the cause-list, there is no representation for the respondent/corporation.

10. Heard the learned counsel appearing for the appellants and perused the typed-set of papers and original records.

11. The learned counsel appearing for the appellants would submit that having regard to the date of accident the notional income of Rs.13,000/- per month and Rs.12,500/- per month fixed by the Tribunal for deceased persons in C.M.A.Nos.2956 and 2958 of 2024 respectively are very much on lower side and hence, the same require enhancement.

12. A perusal of the claim petitions filed by the claimants would indicate that the deceased N.Murugavel was a Boat Owner and Sea Food Merchant and was earning Rs.65,000/- per month. It was also stated by the claimants that the deceased M.Sharmila was a Sea Food Merchant and was earning Rs.20,000/- per month. In order to prove the avocation, the



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claimants produced Marine Fishers Identity Card issued by the Ministry of Agriculture, Government of India for N.Murugavel marked as Ex.P5 and Marine Fishers Identity Card issued by the Ministry of Agriculture, Government of India issued to M.Sharmila marked as Ex.P9. However, they have not produced any documentary evidence to prove the income of the deceased persons. Even if there is no proof to show the income of the deceased persons, this Court can fix the notional income by taking into consideration the facts and circumstances of the case.

13. In the case on hand, the accident had occurred on 11.02.2017. Hence, taking into consideration the date of accident and the prevailing cost of living, this Court is inclined to fix Rs.15,000/- each as notional income for the deceased persons. Infact, Tribunal fixed Rs.13,000/- as notional income for N.Murugavel and Rs.12,500/- as notional income for deceased M.Sharmila. Both of them are engaged in Sea Food Business and Government of India issued Marine Fishers Identity Card to both of them. In these circumstances, absolutely there is no valid reason for the Tribunal to fix two different notional income for the deceased persons. Therefore, in the absence of any concrete evidence to prove the income, this Court is



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inclined to fix notional income for N.Murugavel and M.Sharmila at
Rs.15,000/- each per month.

14. A perusal of Marine Fishers Identity Card issued by the Ministry of Agriculture, Government of India to the deceased persons would indicate that N.Murugavel was born on 01.01.1977 and M.Sharmila was born on 19.03.1985. Therefore, the age of N.Murugavel and M.Sharmila are fixed at 40 years and 32 years respectively. The claimants in C.M.A.No.2956 of 2024 are entitled to 25% enhancement towards future prospects. However, the claimants in C.M.A.No.2958 of 2024 are entitled 40% enhancement towards future prospects. The applicable multiplier for N.Murugavel is 15 and the applicable multiplier for M.Sharmila is 16.

15. In view of the discussions made earlier, the loss of dependency for claimants in C.M.A.No.2956 of 2024 (N.Murugavel) is fixed at Rs.25,31,250/- ($\text{Rs.15,000} \times 1.25 \times 12 \times 15 \times 3/4$). The 1st claimant in C.M.A.No.2956 of 2024, mother of the deceased is entitled to Rs.40,000 towards parental consortium. The minor claimants 2 to 4 are entitled to Rs.40,000/- each towards loss of love and affection. In addition to the above



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said sum, they are entitled to Rs.30,000/- towards funeral expenses and loss of estate. Therefore, the claimants in C.M.A.No.2956 of 2024 are entitled to Rs.27,21,250/-. Accordingly, the compensation amount is enhanced to Rs.27,21,250/-.

16. The 1st claimant is entitled to withdraw 10% of the total compensation towards her share and the remaining compensation amount shall be equally shared between minor claimants 2 to 4.

17. In view of the discussions made earlier, the award passed by the Tribunal in M.C.O.P.No.2283 of 2017 is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Dependency	Rs.26,20,800/-	Rs.25,31,250/-	Reduced
2.	Loss of Parental Consortium	Rs.44,000/-	Rs.40,000/-	Reduced
3.	Loss of Love and Affection	-	Rs.1,20,000/- (Rs.40,000 x 3)	Granted
4.	Loss of Estate and Funeral Expenses	Rs.33,000/- (Rs.16,500 + Rs.16,500)	Rs.30,000/-	Reduced
Total		Rs.26,97,800/-	Rs.27,21,250/-	Enhanced by Rs.23,450/-

18. The Respondent-Transport Corporation is directed to deposit the enhanced award amount of Rs.27,21,250/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation,



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to the credit of M.C.O.P.No.2283 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Cuddalore, within a period of six weeks from the date of receipt of copy of this judgment.

19. On such deposit, the 1st appellant/1st claimant is permitted to withdraw her share by making formal application before the Tribunal.

20. The share of the minor claimants 2 to 4 shall be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which shall be renewed periodically until they attain majority and the 1st appellant/1st claimant, being the Guardian of the minor claimants 2 to 4, is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account **once in three months** and the same shall be used for the welfare of the minor claimants 2 to 4.

21. The loss of dependency for claimants in C.M.A.No.2958 of 2024 (M.Sharmila) is fixed at Rs.30,24,000/- (Rs.15,000 x 1.4 x 12 x 16 x 3/4). Hence, the claimants in C.M.A.No.2958 of 2024 are entitled to loss of dependency at Rs.30,24,000/-. This Court is not inclined to grant any



conventional damages to 1st claimant in C.M.A.No.2958 of 2024 as she happens to be the mother-in-law of the deceased. However, the claimants 2 to 4 are entitled to Rs.40,000/- each towards loss of love and affection. In addition to that, the claimants are entitled to Rs.30,000/- towards funeral charges and loss of estate. In all the claimants in C.M.A.No.2958 of 2024 are entitled to Rs.31,74,000/-.

22. The 1st claimant is entitled to 10% of the total compensation amount. The minor claimants 2 to 4 are entitled to 30% each of the total compensation amount. Accordingly, the award passed by the Tribunal in M.C.O.P.No.2282 of 2017 is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Dependency	Rs.25,20,000/-	Rs.30,24,000/-	Enhanced
2.	Loss of Parental Consortium	Rs.44,000/-	-	Set Aside
3.	Loss of Love and Affection	-	Rs.1,20,000/- (Rs.40,000 x 3)	Granted
4.	Loss of Estate and Funeral Expenses	Rs.33,000/- (Rs.16,500 + Rs.16,500)	Rs.30,000/-	Reduced
Total		Rs.25,97,000/-	Rs.31,74,000/-	Enhanced by Rs.5,77,000/-



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23. The Respondent-Transport Corporation is directed to deposit the enhanced award amount of Rs.31,74,000/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.2282 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, within a period of six weeks from the date of receipt of copy of this judgment.

24. On such deposit, the 1st appellant/1st claimant is permitted to withdraw her share by making formal application before the Tribunal.

25. The share of the minor claimants 2 to 4 shall be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which shall be renewed periodically until they attain majority and the 1st appellant/1st claimant, being the Guardian of the minor claimants 2 to 4, is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account **once in three months** and the same shall be used for the welfare of the minor claimants 2 to 4.



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WEB COPY 26. Accordingly, the appeal in C.M.A.No.2956 of 2024 is partly allowed and the appeal in CMA.No.2958 of 2024 is allowed. The claimants in CMA.No.2958 of 2024 are directed to pay an additional court fee for the enhanced award amount. It is made clear that the claimants are not entitled to claim interest for the delay period of 385 days as per the order in C.M.P.Nos.20031 and 20036 of 2024, dated 22.10.2024. No costs.

04.04.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm



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To

- 1.The Motor Accident Claims Tribunal,
Special Sub Court, Cuddalore.
- 2.The Managing Director,
Tamilnadu State Express Transport Corporation,
Pallavan Salai,
Chennai-2.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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