



CMA.No.642 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :04.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.642 of 2025 and
C.M.P.No.5076 of 2025

The Managing Director (AP-03-Z-5245)
Situating at Andhra Pradesh State Road Transport Corporation,
RTC house, Pandit Nehru Bus Station,
Vijayawada, Andhrapradesh ... Appellant

Vs.

1.E.Kuppusamy (Died),
1. K.Sivakumar
2.K.Bharani

3.The Managing Director (AP-03-Z-0263)
Situating at Andhra Pradesh State Road Transport Corporation,
RTC House, Pandit Nehru Bust Station,
Vijayawada, Andhrapradesh ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the fair and decretal order dated 07.11.2023 passed in MCOP No.424 of 2018 on the file of the Motor Accident Claims Tribunal Judge (III Additional District Court) Villupuram Kallakurichi.

For Appellants : Mr.T.Thiyagarajan
For Respondent : Mr.A.G.Rajan for R1 and R2



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JUDGMENT

Aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, the appellant transport corporation has come before this Court by way of this appeal.

2. The respondents 1 and 2, who were the claimants before the Tribunal, filed the claim petition seeking compensation of Rs. 15,00,000/- for the death of one Rathinam. The first and second respondents/ claimants are the children of the deceased. Originally, the claim petition was filed by the respondents 1 and 2 along with their father Kuppusamy and he died pending the original petition.

3. It is not in dispute that the mother of the claimants died in a road accident that had taken place on 21-07-2018 involving the bus belonged to the Appellant Corporation. As against the claim of Rs.15 lakhs made by the claimants, the Tribunal awarded a sum of Rs. 12,00,000/- as compensation. Aggrieved by the quantum of compensation, the Appellant Corporation has filed this appeal.



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4. Heard the arguments of the learned counsel for the appellant and the learned counsel for the respondents 1 and 2/claimants.

5. Both the learned counsel for the appellant as well as respondents 1 and 2 have not raised any point on the questions of negligence and liability. Therefore, the facts necessary to decide those questions are not discussed in this judgment.

5. The learned counsel for the Appellant Corporation submitted that as per Exhibit P2, Post-Mortem Report and Exhibit P1, FIR, the age of the deceased was mentioned as 46 years, however, the Tribunal observed that the age of the deceased was mentioned as 43 years in Post-Mortem Report and applied multiplier of 14. According to him, the applicable multiplier is only 13.

6. The learned counsel for the respondents 1 and 2/ claimants submitted that the accident had occurred in the year 2018 and the notional income of Rs.8,000/- fixed by the Tribunal was very much on the lower side.

7. A perusal of the claim petition would indicate that it was



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averred by the claimants that the deceased was engaged in agriculture, cattle farming and vegetable vending at the relevant point of time and he was earning a sum of Rs.50,000/- per month. However, the claimants have not produced any documentary evidence to prove the avocation or income. In any event, this court can fix the notional income by taking into consideration the facts and circumstances of the case and the prevailing cost of living. The accident had occurred in the year 2018. Taking into consideration the cost of living and the date of accident, the amount of Rs. 8,000/- fixed by the Tribunal as notional income is very much on the lower side. Therefore, the same is enhanced to Rs.15,000/- per month.

8. As per Exhibit P2, post-mortem report, the age of the deceased was mentioned as 46 years. In the FIR also, the age of the deceased was mentioned as 46 years. Therefore, the applicable multiplier would be 13. The claimants are entitled to 25% enhancement towards future prospects as per the law settled by ***Pranay Sethi*** case. Therefore, the claimants are entitled to Rs.19,50,000/- towards loss of dependency which is calculated as follows:-



$$15,000 \times 1.25 \times 12 \times 13 \times 2 / 3 = \text{RS. } 19,50,000/-$$

9. The Tribunal awarded only Rs.50,000/- under the head loss of love and affection to the claimants. As per the law laid down in ***Pranay Sethi*** case, they are entitled to Rs.80,000/-(Rs.40,000/- each). The amount awarded towards funeral expenses and loss of estate are confirmed. Therefore, in all, the claimants are entitled to Rs.20,60,000/-. Accordingly, the amount awarded by the Tribunal is modified 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	11,20,000/-	19,50,000 /-	Enhanced
2.	Funeral Expenses	15,000/-	15,000/-	Confirmed
3.	Loss of love and affection	50,000/-	80,000/-	Enhanced
4	Loss of Estate	15,000/-	15,000/-	Confirmed
	Total	12,00,000/-	20,60,000 /-	Enhanced by Rs.8,60,000



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10. Though the respondents 1 and 2/ claimants have not filed cross-appeal, this Court feels that this is an appropriate case to invoke its power under Order 41 Rule 33 of CPC and award just compensation as per the law laid down by the Division Bench of this Court in the case of ***Tamil Nadu State Transport Corporation Vs Karupathal in C.M.A.No.1845 of 2017***. Hence, this Court is inclined to enhance the compensation even without a cross-appeal by the claimants.

11. In view of the discussions made earlier, the appeal filed by the appellant transport corporation is dismissed and the amount awarded by the Tribunal at Rs.12,00,000/- is enhanced to Rs.20,60,000/-.The respondents 1 and 2/ claimants are entitled to interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of realization. The Appellant Transport Corporation is directed to deposit the enhanced amount along with interest and costs, less the amount already deposited, if any, within a



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On deposit of the enhanced sum, the respondents 1 and 2/claimants are entitled to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. Consequently, the connected miscellaneous petition is closed. No costs.

04.03.2025

Index: Yes/No
Internet: Yes/No
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To

1. Motor Accident Claims Tribunal,
III Additional District Court, Villupuram, Kallakurichi.
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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