



CMA.No.500 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :24.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.500 of 2025

1. S.Latchumi
2.S.Nithya
3.S.Priya
4.Minor S.Nithyapaveen
(Rep by mother guardian,NF Latchumi,
1st petitioner herein)
C.Anjapuli (Died)
A.Bakkiyam (Died)

... Appellants

Vs.

Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Villupuram Division-I, Villupuram 605 602

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the appeal and enhance the compensation in MCOP No.3518 of 2015, on the file of the Motor Accident Claims Tribunal/I Additional District and Sessions Judge(FAC), Cuddalore.

For Appellants : M/s.Ramya V.Rao

For respondents : Mr.S.S.Santhosh Kumar

JUDGMENT

Not satisfied with the quantum of compensation granted by the Motor Accident Claims Tribunal, the claimants have come before this



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WEB COPY court by way of this appeal.

2. It is the case of the claimants that husband of the first claimant, father of the claimants 2 to 4 and son of the claimants 5 and 6 namely Sengeni died in a road accident that had taken place on 06.06.2015. According to the claimants, the accident was caused due to rash and negligent driving of the respondent corporation bus bearing registration number TN 32 N 3872. The claimants filed the claim petition seeking compensation of Rs.30,00,000/-. Pending the claim petition, the claimants 5 and 6, parents of the deceased victim passed away. It is not in dispute that the children of the victim, who are already on record are entitled to be treated as legal representatives of the deceased parents of the victim, in their capacity as children of the pre-deceased son. Both the learned counsel for the appellants as well as respondent corporation have not advanced any arguments on the questions of negligence as well as liability. Therefore, the facts necessary for deciding those questions are not discussed in this appeal.

3. Against the claim of Rs.30,00,000/- made by the claimants, the Tribunal awarded a sum of Rs.15,12,600/- after fixing contributory



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negligence of 10% on the victim for the failure to wear a helmet. Not satisfied with the quantum, the claimants have filed this appeal.

4. The learned counsel for the claimants submitted that the accident had occurred in the year 2015. However, the Tribunal fixed only Rs.9000/- as a notional income of the deceased and the same requires enhancement.

5. The learned counsel for the Respondent Corporation submitted that the claimants have not produced any documents to prove the avocation as well as the income of the deceased and hence, the amount of Rs.9000/- fixed by the Tribunal as notional income requires no interference.

6. In the claim petition, it was stated by the claimants that the deceased was aged about 43 years at the time of accident and he was employed as Sugarcane Maistry at the time of accident. It was also claimed that he was earning a sum of Rs.20,000/- per month at the time of accident. However, the claimants have not produced any documentary evidence to prove the income of the deceased. The only evidence available on record is the testimony of the first claimant. Even if no



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documentary evidence is produced to prove the income of the deceased, this Court, taking into consideration the facts and circumstances of the case, can fix notional income. In the case on hand, the accident had occurred in the year 2015. Therefore, taking into consideration the year of accident and the cost of living, this court deems fit to fix notional income at the rate of Rs.15,000/- per month.

7. The deceased was aged about 43 years at the relevant point of time and hence, the claimants are entitled to 25% enhancement towards future prospects. The applicable multiplier is 14. Since there were 6 claimants at the time of filing of claim petition, the Tribunal was justified in deducting $\frac{1}{4}$ of the amount towards personal expenses. Therefore, the claimants are entitled to Rs.23,62,500 under the head Loss of Dependency.

$$15,000 \times 1.25 \times 12 \times 14 \times \frac{3}{4} = \text{Rs.23,62,500}$$

8. The Tribunal, without taking into consideration the date of accident, has given 10% enhancement under various other conventional heads like loss of spousal consortium, loss of love and affection, loss of filial consortium. The judgment in *Pranay Sethi* case was delivered only



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WEB COPY in the year 2017. In the case on hand, the accident had occurred in the year 2015. Therefore, the claimants are not entitled to 10% enhancement under the conventional heads. Therefore, the 1st claimant is entitled to Rs.40,000/- under the head loss of spousal consortium. The claimants 2 to 4 are entitled to Rs.1,20,000/- under the head loss of love and affection. The claimants 5 and 6, who are parents of the deceased victim, are entitled to Rs.80,000/- under the head parental consortium. Since the parents of the deceased died pending the claim petition, the amount awarded under the head parental consortium will go to their legal representatives. The claimants are also entitled to Rs.30,000/- under the head loss of estate and funeral expenses. The amount awarded under the head transportation charges is confirmed. Therefore, the claimants are entitled to Rs.26,42,500/-. Since 10% contributory negligence was fixed on the victim, after deduction of 10% of the above said amount, the claimants are entitled to a sum of Rs.23,78,250/- Accordingly, the award passed by the Tribunal is modified as follows:-

Sl • No	Description	Amount awarded by Tribunal	Amount awarded by this Court (Rs)	Award confirmed or enhanced
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		(Rs)		or granted
1.	Loss of dependency	14,17,584/-	23,62,500/-	Enhanced
2.	Loss of estate and funeral expenses	33,000/-	30,000/-	Reduced
3.	Loss of Parental Consortium	44,000/-	80,000/-	Enhanced
4.	Loss of Spousal Consortium(1 st claimant)	44,000/-	40,000/-	Reduced
5.	Loss of Love and Affection (claimants 2 to 4)	1,32,000/-	1,20,000/- (40,000x3) -	Reduced
6.	Transportation Expenses	10,000/-	10,000/-	Confirmed
	Total	16,80,584/-	26,42,500/-	Enhanced by Rs.9,61,916 /-
	Less:10%contributory negligence	1,68,058/-	2,64,250	
	Net compensation	15,12,526/- rounded to 15,12,600/-	23,78,250/-	Enhanced by 8,65,650/-

11. With the above modifications, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.



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WEB COPY 15,12,600 /- is hereby enhanced to Rs.23,78,250/-.

12. It is also brought to the notice of this Court that CMP.No.20636 of 2024 was filed to condone the delay of 527 days. This Court, while condoning the delay in CMP.No.20636 of 2024, ordered that the appellants/claimants are not entitled to claim any interest for the delay period of 527 days. Therefore, it is made clear that the appellants/claimants are not entitled to claim any interest for the delay period of 527 days.

13. The appellants are entitled to interest at the rate of 7.5% per annum excluding the delay period (527 days) from the date of filing of the claim petition till the date of realization.

14. The learned counsel for the respondent corporation submitted that entire award amount has been deposited to the credit of



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WEB COPY MCOP.No.3518 of 2015 on the file of Motor Accident Claims Tribunal/I

Additional District and Sessions Judge(FAC), Cuddalore. The respondent corporation is directed to deposit the enhanced sum together with the interest within a period of six weeks from the date of receipt of copy of this Judgment.

15. The 4th claimant being minor, his share in award amount is directed to be invested in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which shall be renewed periodically until he attains majority and the 1st appellant/1st claimant, being the Natural Guardian of the minor 4th claimant, is permitted to withdraw the interest accrued thereon **once in three months** and the same shall be used for the welfare of the minor 4th claimant. The claimants 1 to 3 are entitled to withdraw their share of compensation amount, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The appellants are directed to pay the applicable additional court fee. No costs.



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Index:Yes/No
Internet:Yes/No
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To

1. Motor Accident Claims Tribunal,
The I Additional District and Sessions Judge(FAC), Cuddalore.
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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