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CMA No.584 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.584 of 2025

1. Thangam
2. Selvam
3. Chinnathambi
4. Ranjit @ Ranjithkumar

.... Appellants

vs.

The Managing Director,
M/s Tamil Nadu State Transport Corporation Limited,
having head office at no.12, Ramakrishna Road,
Salem 636 007.

... Respondent

Prayer: The Civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to allow the appeal and enhance the award amount dated 25.08.2023 in MCOP No.916 of 2017 on the file of the Additional District Judge, Motor Accident Claims Tribunal, Fast Track Court, Mettur.

For Appellants : Mr.R.Navaneetha Krishnan

For Respondents : Mr.D.Nitin

JUDGMENT



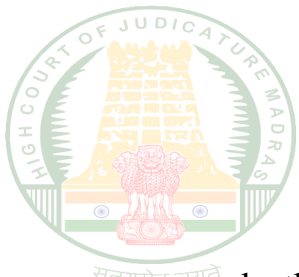
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Not satisfied with the quantum of compensation awarded by the Tribunal and also challenging the contributory negligence fastened on the deceased, the claimants have filed the present appeal.

2. It is not in dispute that son of the claimants 1 and 2 and brother of the claimants 3 and 4 died in a road accident that had taken place on 02.03.2017. It is the case of the claimants that the deceased proceeded in his two wheeler on Mecheri-Omalur Main Road on the left side and while he came near Bathrakaliamman temple east side tower, a bus belonging to the respondent corporation came in a rash and negligent manner and hit against the two wheeler. As a result of accident, the deceased sustained grievous injuries and thereafter, he died on 03.03.2017 in hospital. The claimants filed claim petition before the Tribunal seeking compensation of Rs.40,00,000/-.

3. The claim petition was resisted by the respondent corporation on the ground that the accident had occurred only due to the rash and negligent driving of the deceased and at the time of accident, the deceased did not wear helmet and hence, he also contributed to his



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4. Before the Tribunal, on the side of the claimants, the first claimant was examined as PW1 and an eye witness was examined as PW2 and 15 documents were marked as Ex.P1 to Ex.P15. On the side of the respondent, driver of the bus was examined as RW1, however, no documentary evidence was adduced.

5. The Tribunal based on the evidence available on record, came to the conclusion that the deceased also contributed to the accident and hence fixed 20% contributory negligence on the part of the deceased and after deducting the 20% from the total compensation of Rs.10,12,000/-, awarded a sum of Rs.8,09,600/- as compensation to the claimants. Not satisfied with the quantum of compensation and also challenging the contributory negligence fastened on the deceased, the claimants have come before this court.

6. The learned counsel for the appellants would submit that the



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evidence of PW1 and PW2 clearly established that the accident had occurred only due to the negligence on the part of the driver of the respondent bus and hence, the Tribunal committed an error in fixing contributory negligence on the part of the deceased. Learned counsel further submits that the amount of Rs.9,000/- fixed by the Tribunal as notional income is very much on lower side.

7. The learned counsel for the respondent vehemently contended that the deceased did not wear helmet at the time of accident and he came in the wrong direction in one way. Therefore, the Tribunal was justified in fixing contributory negligence on the part of the deceased.

8. In order to prove the negligence on the part of the driver of the bus, the claimants examined one eyewitness namely Suresh as PW2. Though the accident had occurred on 02.03.2017, PW2, who is claiming himself as eyewitness, has not given police complaint immediately and the complaint was lodged only on 03.03.2017. It was admitted by the PW2 that the accident had occurred near Bathrakaliamman temple in Mecherry-Omalur Main Road. The driver

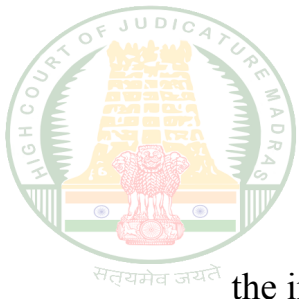


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of the respondent bus was examined as RW1 and he deposed that the accident had occurred near the temple and the said road is one way and it is congested one. It is seen from the evidence of PW2 and RW1 that the deceased came in a two wheeler in the opposite direction and hit against the front portion of the bus. Therefore, it is clear that it was a case of head on collision and the deceased had driven his vehicle in the wrong direction in one way. Therefore, the Tribunal had fixed 20% contributory negligence on the part of the deceased. It is also seen from the records that the deceased died due to the head injury and he did not wear helmet at the time of accident and had he worn the helmet, he would have averted the death. Therefore, this court is not inclined to disturb the findings of the Tribunal with regard to the aspect of contributory negligence.

9. In the claim petition, it was averred by the claimants that the deceased was doing handloom and brick kiln business at the relevant point of time. However, the claimants have not produced any documentary evidence to prove the occupation and income of the deceased. Even if no documentary evidence is produced to prove the



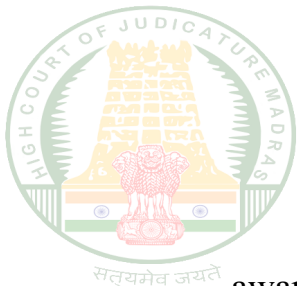
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the income of the deceased, this court can fix notional income by taking into consideration the year of accident and cost of living. In the case on hand, the accident had taken place in the year 2017 and hence, this court proceeds to fix notional income at Rs.15,000/- per month. The deceased was 24 years old at the time of accident and hence, 40% of income should be enhanced towards future prospects. The proper multiplier to be adopted in this case is '18'. Since the deceased died as a bachelor, half of the amount should be deducted towards his personal expenses. Therefore, loss of dependency is fixed at Rs.22,68,000/- (15,000 x 1.4 x 12 x 18 x 1/2)

10. The Tribunal awarded a sum of Rs.25,000/- towards loss of love and affection and loss of estate. But the claimants are entitled to get compensation under the said heads separately. Accordingly, the claimants 1 and 2, who are the parents of the deceased are entitled to a sum of Rs.40,000/- each towards parental consortium and the claimants are entitled to a sum of Rs.15,000/- towards loss of estate. The compensation awarded under the head funeral expenses is confirmed.

11. Inview of the discussions made earlier, the compensation



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awarded by the Tribunal is revised as under:

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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	9,72,000	22,68,000	enhanced
2.	Loss of love and affection to claimants 1 and 2 and loss of estate	25,000	95,000 (Rs.80,000/- under parental consortium and Rs.15,000/- under loss of estate)	enhanced and granted separately under two heads.
3	Funeral expenses	15,000	15,000	confirmed
	Total	10,12,000	23,78,000	13,66,000
	Less contributory negligence	2,02,400	4,75,600	-
	compensation	8,09,600	19,02,400	enhanced by 10,92,800

12. With the above modifications, this **Civil Miscellaneous Appeal is allowed** and the compensation awarded by the Tribunal at Rs.8,09,600/- is hereby enhanced to **Rs.19,02,400/-** together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The claimants are directed to pay applicable court fee on the above mentioned enhanced



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compensation.
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13. From the above compensation now determined by this court, the claimants 1 and 2/parents are jointly entitled to Rs.17,02,400/- and the claimants 3 and 4/brothers are entitled to Rs.1,00,000/- each.

14. The respondent is directed to deposit the compensation amount now determined by this Court, along with 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 shall be permitted to withdraw their respective share of award amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

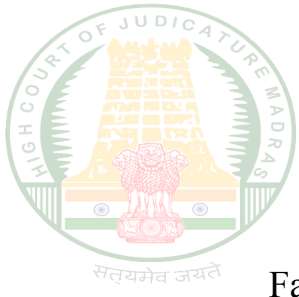
There shall be no order as to costs.

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Index: Yes/No
Internet: Yes/No
mst

To

1. The Additional District Judge,



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Fast Track Court,
Motor Accident Claims Tribunal,
Mettur.

2. The Section Officer,
V.R.Section, Madras High Court,
Chennai-104.



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S.SOUNTHAR, J.

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