



C.M.A(MD)No.1055 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A(MD)No.1055 of 2022

and

C.M.P(MD)No.10498 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation (Madurai Ltd.)
Nagar Branch,
By Pass Road,
Madurai.

... Appellant/1st Respondent

-Vs-

Subban(deceased)

1.Palaniammal
2.Selva Ganapathi
3.Packialashmi

...Respondents 1 to 3/Petitioners
2 to 4

4.Pooppandi
5.The Branch Manager,
Royal Sundram General Insurance Company Ltd.,
Vishranthi Melaram Towers
No.1/319, Rajivgandhi Salai(OMR)
Karappakkam,
Chennai.

... Respondents 4 & 5/
Respondents 2 & 3



C.M.A(MD)No.1055 of 2022

WEB COPY

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, as against the award and decree dated 09.02.2021 passed in M.C.O.P.No.341 of 2016 by the Motor Accidents Claims Tribunal/Principal District Court, Pudukkottai.

For Appellant : Mr.P.Prabhakaran

For R1 to R3 : Mr.K.C.Mariyaraju

For R5 : Mr.S.Srinivasa Raghavan

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Managing Director of the Tamil Nadu State Transport Corporation, Madurai, against the award dated 09.02.2021 passed in M.C.O.P.No.341 of 2016 by the Motor Accidents Claims Tribunal/ Principal District Court, Pudukkottai, on quantum and on the issue of negligence.

2.Heard the arguments of the learned counsel for the appellant, the learned counsel for the respondents 1 to 3 and the learned counsel for the fifth respondent.



C.M.A(MD)No.1055 of 2022

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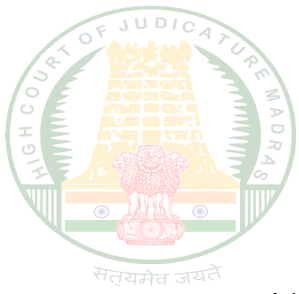
3.The dependents of the deceased Palanikumar filed a claim petition before the Tribunal under Section 166 of Motor Vehicles Act, claiming compensation of Rs.50,00,000/- for the death of Palanikumar in a road traffic accident that occurred on 25.04.2016.

4.Upon consideration, the entire liability was fastened on the Tamil Nadu State Transport Corporation, the appellant herein and the Tribunal granted compensation for a sum of Rs.26,50,480/-. The breakup details of the said compensation is given hereunder:

For Loss of Dependency	:Rs.25,80,480/
For Loss of Estate	:Rs.15,000/
For Funeral Expenses	:Rs.15,000/
For Filial Consortium	:Rs.40,000/

Total	Rs.26,50,480/

5.On the claimant's side, P.W.2-Raju, S/o.Oyyandi, has been examined as ocular witness. It is his evidence that on 25.04.2016 at about 6 a.m., when he was proceeding from Arappalayam to Thirumangalam



C.M.A(MD)No.1055 of 2022

WEB COPY

road in front of Metal Powder Company, a Maruti Swift Car(TN-66-Q-4788) was proceeding ahead of his vehicle and a Government bus bearing Registration No.TN-58-N-1752, came in a rash and negligent manner and hit upon the Maruti Swift Car. When he rushed to the car, the driver and inmates of the car found to have sustained serious injuries and they were taken in a 108 ambulance to Thirumangalam Hospital and thereafter, for further treatment, they were taken to Madurai Rajaji Government Hospital. On 28.04.2006, the driver of the car Palanikumar succumbed to the injuries. It is his further evidence that due to the rash and negligent driving of the driver of the respondent Corporation, the accident occurred.

6.The driver of the respondent Corporation bus, Vijayan/R.W1 would depose that on the date of accident, at about 05.20 a.m., while he was proceeding from Arappalayam to Thirumangalam along Madurai Thirumangalam Road, when he was nearing the Metal Powder Company, a Maruti Swift Car, came in a rash and negligent manner in the service road on the right side of the road, he applied brake and the car hit upon the bus.



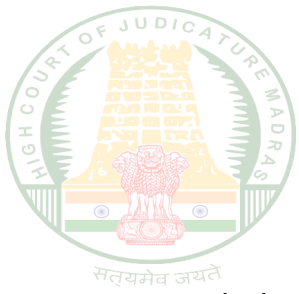
C.M.A(MD)No.1055 of 2022

WEB COPY

7.From the aforesaid details, it is inferable that the car was proceeding from south to North and from the opposite side, the Government bus came in a rash and negligent manner and hit upon the car. This Court does not find any valid reason to disturb the findings of the tribunal as to the issue of negligence.

8.As regards the quantum, it has come on record through the evidence of P.W.1 that the deceased was working as a driver and earning a sum of Rs.30,000/ per month. Ex.P.9 is the Driving License. No document was filed to substantiate the said details by the claimant's side. In consideration of the aforesaid details, this Court deems it fit to fix the notional income of the deceased as 12,800/-. As per the post-mortem certificate-Ex.P.2, the age of the deceased is fixed as 22 years.

9.The Tribunal has dismissed the claim petition as against the fourth claimant, who is the sister of the deceased. The claimants are three in numbers. As held in ***Sarala Varma and others Vs Delhi Transport Corporation and another***, reported in ***2009(2) TNMAC 1(SC)*** for



C.M.A(MD)No.1055 of 2022

WEB COPY

deduction for personal and living expenses, 50% has to be deducted, if the deceased is a bachelor. The proper multiplier to be adopted is '18m'. As regards the future prospects, the Hon'ble Supreme Court has standardized the details in ***National Insurance Company Vs Pranay Sethi and others***, reported in ***2017(2)TNMAC 609(SC)*** for the age group of persons below 40 years and for the self employed, had fixed 40% to be added with the notional income for computing the loss of dependency. For computing loss of dependency, the following formula emerges:

$$12,800/- + 40/100 - \frac{1}{2} \times 12 \times 18m = \text{Rs.}19,35,360/-$$

10.For loss of consortium, a sum of Rs.40,000/- is granted in addition to the amount already granted by the Tribunal. As regards the other heads, the amounts granted by the Tribunal appears to be reasonable and acceptable and it needs no interference. The compensation awarded by the Tribunal is reworked and tabulated hereunder.



S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of dependency	Rs.25,80,480/-	Rs.19,35,360/-	Reduced
2	For Loss of consortium	Rs.40,000/-	Rs.80,000/-	Enhanced
3	For loss of estate	Rs.15,000/-	Rs.15,000/-	Confirmed
4	For Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	Total	Rs.26,50,480/-	Rs.20,45,360/-	

Rounded off to Rs.20,45,000/-

11. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed.

(ii) The compensation awarded by the Tribunal is reduced from Rs.26,50,480/- to Rs.20,45,000/-.

(iii) The appellant/Transport Corporation is directed to deposit the award amount of Rs.20,45,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.341 of 2016 on the file of the Motor Accident Claims Tribunal/Principal District Court, Pudukkottai, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.



C.M.A(MD)No.1055 of 2022

WEB COPY

(iv)On such deposit being made, the respondents 1 and 2/Claimants are permitted to withdraw their shares along with interest and costs as apportioned by the Tribunal, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v).The excess amount if any, shall be refunded to the appellant/Transport Corporation.

(vii)No costs. Consequently, connected miscellaneous petition is also closed.

26.02.2025

NCC:Yes/No

Index:Yes/No

Internet::Yes/No

To

1.The Motor Accidents Claims Tribunal,
Principal District Court,
Pudukkottai.



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C.M.A(MD)No.1055 of 2022

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