

IN THE COURT OF MOTOR ACCIDENT CLAIMS TRIBUNAL  
(PRINCIPAL DISTRICT JUDGE, PERAMBALUR)  
Present : Tmt.S.Subadevi, B.A., B.L., M.B.A.,  
Motor Accident Claims Tribunal Judge/Principal District Judge.

Wednesday, the 18<sup>th</sup> day of August 2021.

M.C.O.P.No.582/2019

1. Selvakumar, 36/2019,  
S/o.Pumalai.

2. Muthulakshmi, 29/2019,  
W/o.Selvakumar.

-- Petitioners.

-Vs-

Jayaprakash,  
S/o.Ragupathi,  
Perambalur.

-- Respondent.

The petition coming before me for final hearing in the presence of Thiruvargal.T.M.Venkatachalapathy and J.Prabu, Advocates for the petitioners and respondent called absent set exparte and after hearing the arguments of petitioners sides, upon perusing the evidence and documents and having stood over for consideration till this date, this Tribunal has passed the following:-

**ORDER**

The petition has been filed U/S.164 of M.V.Act for claiming compensation from the respondent to the tune of Rs.10,00,000/- for the death of minor Ramakrishnan, S/o.Selvakumar, aged 6 years in a road accident which took place on 14.09.2019.

2. The averments of the claim petition is as follows:

The contention of the petitioners are that the accident occurred on 14.09.2019 at about 1.30 p.m., while the minor Ramakrishnan was standing near his

house in Konar Street, Thambai Village, the TATA ACE light goods vehicle bearing Reg.No.TN 31 AV 6943 belonging to the respondent which was loaded with gas Cylinders and drove by its driver in a rash and negligent manner and came from south to north and dashed against the minor and ran further and stopped at a distance from the accident spot. Due to the accident, the minor sustained severe injuries on his head and all over his body and took first aid treatment in the Govt. Hospital, Perambalur and took further treatment in the Govt. Hospital, Trichy and died due to the accidental injuries on the same day. The accident occurred purely due to the rash and negligent driving of the Tata Ace driver and a case has been registered by the Mangalamedu P.S. in Cr.No.265/2019, U/S.279 and 304(A) of IPC.

3. Mr.R.Thirumalai, Advocate appeared for respondent and after sufficient time given, vakkalath and counter not filed, the respondent set ex-parte.

4. Points for consideration :

- (i) Whether the accident occurred due to the rash and negligent driving of respondent's driver?
- (ii) Whether the respondent is liable to pay compensation?
- (iii) Whether the petitioners are entitled to compensation, If so what is the quantum?

5. In support of the petitioners claim, Pw1 and Pw2 were examined. Ex.P1 to Ex.P8 have been marked.

Point Nos: 1 & 2

6. The 1<sup>st</sup> petitioner was examined as Pw1. Pw1 deposed in his evidence that on 14.09.2019 at about 1.30 p.m. the minor Ramakrishnan was standing near his house, the TATA ACE vehicle bearing Reg.No.TN 31 AV 6943 belonging to the respondent loaded with gas Cylinders which came from south to north and drove by

its driver in a rash and negligent manner and dashed against the minor. Due to the accident, the minor sustained severe injuries on his head and all over his body and took first aid in the Govt. Hospital, Perambalur, further treatment in the Govt. Hospital, Trichy and died on the same day and marked ExP2. The death would caused due to the accidental injuries. The FIR has been marked as Ex.P1 through Pw1. The accident occurred due to the rash and negligent driving of the Tata Ace driver.

7. To prove the manner of accident, the eye witness was examined as Pw2. Pw2 deposed in his evidence that on 14.09.2019 at about 1.30 p.m, Pw2 came in his two wheeler from east service road to Konar street in Thambai, at the time Muthurathna gas cylinder TATA ACE vehicle bearing Reg.No.TN 31 AV 6943 which was loaded with gas Cylinders which came in the same direction and drove by its driver at high speed in a rash and negligent manner, dashed against the minor Ramakrishnan. Due to the accident, the minor sustained grievous injury on his back side head. The accident took place due to rash and negligent act of the driver of the respondent. The complaint given by the deceased father and the FIR registered against the driver of the respondent. From the evidence and Ex.P1, its clear that the accident occurred due to the rash and negligent act of the driver of the respondent. Hence this Tribunal holds that the respondent is liable to pay compensation to the petitioners and answered the Point No:1 & 2 are accordingly.

Point No : 3

8. Quantum of Compensation :

(i) Age:

The petitioner has deposed that the deceased was aged about 6 years at the time of accident. To prove the contention, transfer certificate of the deceased has been marked as Ex.P3. In the Ex.P3 clearly reveals that the date of birth of the

deceased Ramakrishnan was on 24.04.2014. The accident took place on 14.09.2019. Therefore the age of the deceased was fixed by the Tribunal is 6.

9. As far as the minor deceased is concerned, the ratio laid down in Kishan Gopal and another Vs. Lola 2013(2) TN MAC 358 (SC) shall be followed. The learned petitioner Counsel also cited 2014 (1) TN MAC 616 to consider Rs.30,000/- as a notional income of the minor. As per the judgments of Apex Court, this Tribunal fixed notional annual income of the child victim at Rs.30,000/- and the Multiplier is 15.

The Calculation:

|                            |                              |
|----------------------------|------------------------------|
| Notional Annual Income     | =Rs.30,000/-                 |
| Applying multiplier 15     | =Rs.30,000X15=Rs.4,50,000/-. |
| Loss of dependency         | =Rs.4,50,000/-.              |
| Loss of love and affection | =Rs. 40,000/-                |
| Funeral Expenses           | =Rs. 15,000/-                |
| Total                      | =Rs.5,05,000/-               |

Therefore, the respondent is liable to pay a sum of Rs.5,05,000/- to the petitioners.

10. In fine, the petition is partly allowed with cost. An total award is passed for Rs.5,05,000/- (Rupees Five Lakhs and Five Thousands only). The respondent shall deposit the compensation amount within one month from this date in the account of Principal District Judge, Perambalur- **MACT Account No:36124477523, IFSC Code No:ASED: SBIN0000796, MICR Code No:621002002- State Bank of India, Venkatesapuram, Perambalur Branch through NEFT/RTGS.** The award amount shall carry the interest at the rate of 18% p.a from the date of petition till the date of realization, excluding the default period if any. Out of the compensation the petitioners are entitled to each a sum of Rs.2,52,500/-. The compensation amount along with interest and cost of the petitioners shall be deposited in any one of the

Nationalized Bank for three years and permitted to withdraw the accrued interest once in 3 months directly. The petitioners are directed to pay balance court fee within 10 days. Advocate fee is calculated at Rs.9,050/-.

The order is dictated directly to the Executive Assistant and computerized by her, corrected and pronounced by me in open Court, this the 18<sup>th</sup> day of August, 2021.

(Sd/-).S.Subadevi,  
Motor Accident Claims Tribunal Judge,  
Principal District Judge,  
Perambalur.

ANNEXURES:-

I. List of witness examined on the side of the petitioner:

|   |     |                    |
|---|-----|--------------------|
| 1 | Pw1 | Mr.Selvakumar.     |
| 2 | Pw2 | Mr. Nal Narcheyon. |

II. List of documents marked on the side of the petitioners:-

|   |       |   |
|---|-------|---|
| 1 | Ex.P1 | True Copy of FIR.   |
| 2 | Ex.P2 | Computerized copy of Death Certificate of deceased Ramakrishnan.  |
| 3 | Ex.P3 | True copy of School Transfer Certificate of deceased Ramakrishnan.  |
| 4 | Ex.P4 | True copy of Legal Heirship Certificate of deceased Ramakrishnan.   |
| 5 | Ex.P5 | True copies of Aadhaar Identity card, 1st page of (UB) Bank pass book and PAN card of 1 <sup>st</sup> petitioner.   |
| 6 | Ex.P6 | True copies of Aadhaar Identity card, 1st page of (TNGB) Bank pass book and PAN card of 2 <sup>nd</sup> petitioner. |
| 7 | Ex.P7 | True copy of Post-mortem Certificate of deceased Ramakrishnan.  |
| 8 | Ex.P8 | True copy of Aadhaar identity card of Nal Narcheyon.  |

(Sd/-).S.Subadevi,  
Motor Accident Claims Tribunal Judge,  
Principal District Judge,  
Perambalur.