

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 541 of 2024

1. C. Subramanian
S/o. Chinnasamy, Irur Post, Alathur
Taluk, Perambalur Dt.
2. S. Amirtham
W/o. Subramanian, Irur Post, Alathur
Taluk, Perambalur Dt.
3. A. Sellamuthu
S/o. Azhagappan, Irur Post, Alathur
Taluk, Perambalur Dt.

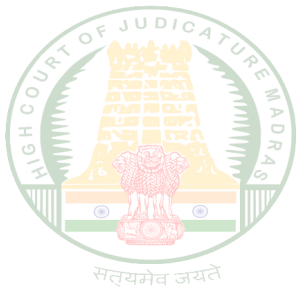
Appellant(s)

Vs

1. V. Banumathi
W/o. Velu, N.No.26, Devaraj Garden,
Thandaiyarpeth, Chennai 81.
- 2.The Branch Manager
United India Insurance Co.Ltd.,
No.50A, Pallivasal St, Perambalur.
- 3.The Managing Director
Tamil Nadu State Transport
Corporation, NO.2, Pallavan Salai,
Chennai.

Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, prays to enhance the compensation amount and fix the entire liability on the 2 nd respondent made in judgement and decree dated 19.06.2023 made in MCOP No.240 of 2016 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Perambalur.



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For Appellant(s): Mr.S.P.Yuaraj

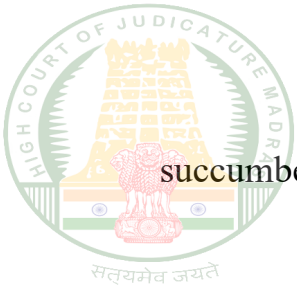
For Respondent(s): R1 - Dispensed With
Ms.R. Rathna Thara For R2
Mr. D.Nitin For R3

JUDGMENT

The appellants have filed this appeal to enhance the compensation awarded in M.C.O.P.No.240 of 2016, on the file of the Motor Accident Claims Tribunal, Principal District Judge, Perambalur, dated 19.06.2023.

2. The brief facts of the case of the appellants/claimants are as follows:

The accident occurred on 22.12.2015 at about 9.00 p.m., when one Silambarasan was driving the 3rd respondent's bus bearing Registration No. TN-01-AN-0103 on the Trichy–Chennai National Highway. When the bus was nearing Kuchukulathur on 23.12.2015 at about 2.00 a.m., a lorry bearing Registration No. TN-88-B-1332, which was proceeding ahead of the bus, was driven by its driver in a rash and negligent manner. Without giving any horn or caution, the driver suddenly turned the lorry from the right side to the left side. As a result, Silambarasan, who was following the lorry, applied sudden brakes, and the bus inevitably collided with the left side of the lorry. Due to the impact, Silambarasan sustained grievous injuries to his legs and chest. He was initially treated at the Government Hospital, Thindivanam, and thereafter took further treatment at Mundiampakkam Hospital. Subsequently, he was admitted to ABC Hospital, Trichy. Despite receiving the best possible treatment, Silambarasan



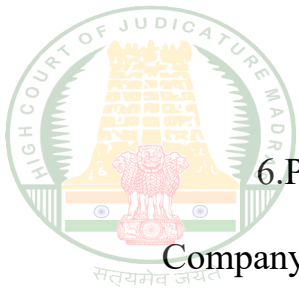
succumbed to his injuries and died on 28.12.2015.

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3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.6,86,533/- as compensation, directing the 2nd respondent to pay the said amount to the appellants along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation at the first instance, and to recover the same from the 1st respondent.

4. Challenging the award passed by the Tribunal, particularly the fixation of 50% contributory negligence upon the deceased, the appellants have preferred the present appeal.

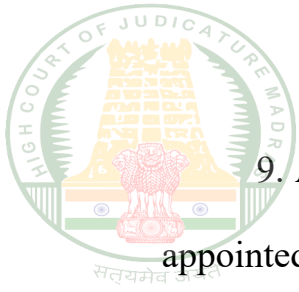
5. The learned counsel for the appellants submitted that the Tribunal has erroneously fixed 50% contributory negligence on the deceased, who was the driver of the transport bus at the time of the accident, without properly appreciating the evidence on record. It was contended that the accident occurred solely due to the sudden right turn made by the lorry, as a result of which the deceased was forced to apply sudden brakes, sustained injuries, and subsequently died. According to the learned counsel, there was no negligence on the part of the deceased, and therefore the fixation of 50% contributory negligence is erroneous and liable to be set aside.



6. Per contra, the learned counsel for the second respondent / Insurance Company, with whom the lorry was insured, argued that the driver of the bus had failed to maintain a safe distance between the two vehicles. It was submitted that had the bus driver maintained the required distance, the accident could have been avoided. Hence, the Tribunal was justified in fixing 50% contributory negligence on the deceased.

7. As rightly pointed out by the learned counsel for the appellants, the evidence of P.W.4, the conductor of the bus, clearly states that at the time of the accident there was a gap of about 10 meters between the two vehicles and that the accident occurred due to the sudden right turn made by the driver of the lorry. On the other hand, the second respondent has not examined the driver of the lorry to establish that the deceased bus driver had contributed to the accident. In the absence of such evidence, the arguments advanced on behalf of the second respondent are unsustainable.

8. The Tribunal has, therefore, erroneously fixed 50% contributory negligence on the deceased bus driver without any material evidence to prove his negligence. Consequently, the fixation of 50% contributory negligence is set aside.



9. Admittedly, at the time of the accident, the deceased was temporarily appointed as a bus driver, and as per the payslip, he had drawn a sum of Rs.8,845/- for 21 days of work. Taking note of this aspect, the Tribunal fixed the monthly income at Rs.8,845/-. The learned counsel for the appellant submitted that since the accident occurred in the year 2015, had the deceased been alive, he would have earned a higher income in the course of time, and therefore prayed for enhancement of the income.

10. Considering the fact that the accident occurred in the year 2015, and that the deceased was in temporary employment at the time of the accident, but would have earned a higher income had he been made permanent, this Court is inclined to enhance the monthly income from Rs.8,000/- to Rs.12,000/-.

11. As per the decision of the Hon'ble Supreme Court in ***National Insurance Co. vs Pranay sethi and others***, reported in ***2017 (2) TNMAC 601***, 40% is to be added towards future prospects of the deceased. The deceased died as a bachelor and hence, 50% is deducted towards his personal expenses. The deceased was aged 28 years at the time of the accident, and as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another***, reported in ***(2009) 6 SCC 121***, the proper multiplier to be adopted in the instance case is 17.



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Notional Income = Rs.12,000/-

40% Future Prospects = 12,000 + 4,800 = 16,800/-

After 1/2 deduction = 16,800 – 8,400 = Rs.8,400/-

Loss of dependency

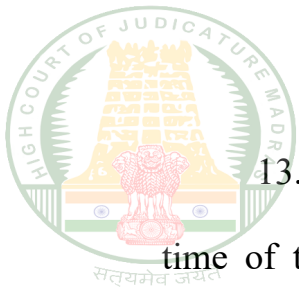
= Rs.8,400 x 12 x 17

= Rs.17,13,600/-

12. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:

Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Loss of Dependency	12,63,066	17,13,600
2.	Loss of Estate	15,000	15,000
3.	Funeral expenses	15,000	15,000
4.	Loss of Consortium	80,000	80,000
	Total	13,73,066	Rs.18,23,600

Thus, the compensation awarded by the Tribunal is enhanced from Rs.13,73,066/- to Rs.18,23,600/-, which shall carry interest at the rate of 7.5% per annum.



13. The learned counsel for the second respondent pointed out that at the time of the accident, the driver of the lorry did not possess a valid driving licence, thereby resulting in a violation of policy conditions, and that the vehicle permit had also been cancelled by the RDO.

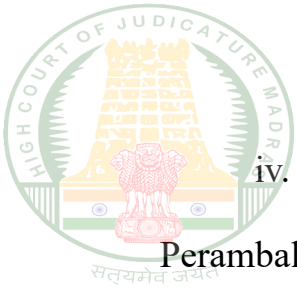
14. Considering the above, this Court is inclined to modify the liability fixed upon the second respondent. Accordingly, the second respondent is directed to pay the enhanced compensation to the claimants and is granted liberty to recover the same from the owner of the lorry / first respondent, under the principle of pay and recovery.

15. In the result:

i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

ii. The compensation awarded by the Tribunal is enhanced from Rs. 13,73,066/- to Rs.18,23,600/-.

iii. The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after the receipt of the Court fee.



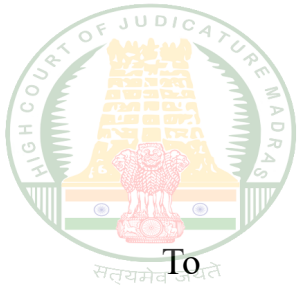
iv. The 2nd respondent, United India Insurance Company Ltd., Perambalur, is directed to deposit the enhanced compensation amount, i.e., Rs.18,23,600/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No. 240 of 2016 on the file of the Motor Accident Claims Tribunal and Principal District Judge, Perambalur, within a period of eight weeks from the date of receipt or uploading of a copy of this order. Thereafter, the Insurance Company / 2nd respondent is at liberty to recover the same from the owner of the vehicle / 1st respondent under the same cause of action.

v. On such deposit being made by the 2nd respondent, the appellants/claimants are at liberty to withdraw the same, as per the apportionment made by the tribunal, after following due process of law.

vi. The appellants/claimants shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

23-07-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

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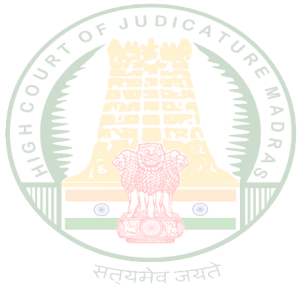
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