



Civil Miscellaneous Appeal Nos.3113 of 2021 & 1537 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal Nos.3113 of 2021 & 1537 of 2022

and

C.M.P.No.8276 of 2024

Prayer in C.M.A.No.3113 of 2021

1.Vimala
2.K.Shanmugam
3.Umamaheswari
4.Kesavan
5.Adhilakshmi (Depressive Psychosis)
Rep.by her sister/first appellant herein as
natural guardian

... Appellants

Vs.

1.V.Chandran
2.Magma HDI General Insurance Company Limited,
Navins Presidium 3rd Floor,
New No.17/19, Old No.103,
B Block 3 Nelson Manickam Road,
Aminjikarai,
Chennai-600 029.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor
Vehicles Act, 1988, against the judgment and decree dated 12.02.2020



Civil Miscellaneous Appeal Nos.3113 of 2021 & 1537 of 2022

made in M.A.C.T.O.P.No.88 of 2018 on the file of the Motor Accident Claims Tribunal, II Special Sub Court, MACT Small Causes Court, Chennai.

For Appellants : Mr.S.R.Suga

For Respondents : R1-NDW
Mr.B.Murugavel for R2

Prayer in C.M.A.No.1537 of 2022

Magma HDI General Insurance Company Limited,
Navins Presidium 3rd Floor,
New No.17/19, Old No.103,
B Block 3 Nelson Manickam Road,
Aminjikarai,
Chennai-600 029.

... Appellant

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1.Vimala
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3.Umamaheswari
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Rep.by her sister/first appellant herein as
natural guardian

6.V.Chandran

... Respondents



Civil Miscellaneous Appeal Nos.3113 of 2021 & 1537 of 2022

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.02.2020 made in M.A.C.T.O.P.No.88 of 2018 on the file of the Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.B.Murugavel

For Respondents : Mr.S.R.Suga for R1 to R5
R6-Ex-parte

COMMON JUDGMENT

Since both the appeals arise out of the same accident and single award passed by the Tribunal, both the appeals are taken up together by this Court and disposed by way of this common judgment.

2. For the sake of convenience and clarity, the parties are referred to as per their ranking before the Tribunal.

3. The case of the claimants is that on 16.10.2017 at about 18.15 hours, the deceased was walking along Nellikuppam Road from Kayarambedu to Kannivakkam direction. At that time, a motorcycle bearing Reg.No.TN 05 J 8767 belonging to the first respondent and insured with the second respondent was ridden by its rider in a rash and



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negligent manner and hit against the deceased, due to which, the deceased sustained fatal injuries and died on the same day. It is under these circumstances, the claimants who are the daughters and sons of the deceased, have filed the claim petition in M.C.O.P.No.88 of 2018 before the Motor Accident Claims Tribunal, Chennai.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident has occurred only due to the rash and negligent driving on the part of the rider of the motorcycle. While deciding the compensation under various heads, the Tribunal awarded compensation under the following heads :-

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	2,70,000/-
2.	Loss of Estate	15,000/-
3.	Loss of Funeral Expenses	15,000/-
4.	Pain and Sufferings	1,50,000/-
5.	Parental Consortium	2,00,000/-
	Total	6,50,000/-

The amount of Rs.6,50,000/- was directed to be paid by the second



respondent/Insurance Company along with interest at 7.5% p.a.

5. The claimants have filed the appeal in C.M.A.No.3113 of 2021 mainly on the ground that the Tribunal had taken a lesser amount towards the notional income of the deceased, who, at the relevant point of time was working as a vegetable vendor and earning Rs.20,000/- per month and the compensation awarded under the other heads awarded by the Tribunal is also very meagre.

6. The second respondent/Insurance Company has filed the appeal in C.M.A.No.1537 of 2022 mainly on the ground that the quantum of compensation awarded by the Tribunal is on the higher side and not in consonance with the facts and circumstances of the case.

7. Heard the learned counsel appearing for both sides.

8. This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the award that was passed by the tribunal and the



reasons assigned therein.

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9. Since both the appeals have been filed challenging the quantum of compensation awarded by the Tribunal, there is no need to discuss about the negligence fixed by the Tribunal.

10. In respect of quantum of compensation, the deceased was aged about 70 years at the time of accident as could be seen from the Postmortem Certificate and though the claimants claim that the deceased was a vegetable vendor and was earning a sum of Rs.20,000/- no proof was produced by them. However, the notional income fixed by the Tribunal at Rs.6,000/- is on the lower side. Hence, as per the judgment of the Hon'ble Apex Court in the case of *Syed Sadiq & Ors. Vs. The Divisional Manager, United India Insurance Co. Ltd (2014 (2) SCC 735)*, this Court is inclined to fix the monthly income of the deceased as Rs.14,000/- and after deducting 1/4th towards personal expenses, the notional income could be safely fixed at Rs.10,500/- and since the deceased was 70 years old at the time of accident, no future prospects can be added and hence, applying the multiplier of “5”, the



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loss of dependency is arrived at Rs.6,30,000/- (Rs.10,500/- * 5 *12). The amount awarded under the heads Loss of Estate, Funeral Expenses is just and reasonable. Since the appellant No.5 is a special child and she has to be taken care of as she has lost the deceased, who is contended to be taking care of her, this Court is inclined to award a sum of Rs.2,00,000/- under the head parental consortium to the fifth claimant alone. The amount of Rs.1,50,000/- awarded under the head loss of love and affection is enhanced to Rs.1,60,000/- (Rs.40,000/- for each of the claimants 1 to 4).

11. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	6,30,000/-
2.	Loss of Estate	15,000/-
3.	Funeral expenses	15,000/-
4.	Love and Affection	1,60,000/-
5.	Parental Consortium	2,00,000/-
	Total	10,20,000/-

12. The compensation awarded by the tribunal at Rs.6,50,000/- is



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enhanced to Rs.10,20,000/-. The above compensation shall be paid together with interest at 7.5% p.a. The second respondent is directed to deposit the enhanced compensation of Rs.10,20,000/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Of the amount of Rs.10,20,000/-, except for the amount of Rs.2,00,000/-, which this Court has specifically awarded to the 5th claimant, the apportionment of compensation of the balance amount as made by the Tribunal stands confirmed. On such deposit being made, the Tribunal is directed to transfer the compensation amount to the share of the respective claimants directly to their bank account through RTGS within a period of two weeks thereafter.

13. In the result, C..M.A.No.3113 of 2021 is partly allowed and C.M.A.No.1537 of 2022 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.12.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

1. The Motor Accident Claims Tribunal,
II Special Sub Court,
MACT Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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