



C.M.A.No.3694 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.12.2024

CORAM:

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.3694 of 2021**

1.R.Kanniyammal

2.S.Raja

...Appellants

Vs.

1.K.Ashok

2.Shriram General Insurance Company Ltd.,  
1<sup>st</sup> Floor, Plot No.5, Ramachandran Street,  
Saravana Nagar, Seevaram, Perungudi,  
Chennai – 600 096.

...Respondents

**Prayer :** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.437 of 2018, dated 22.09.2021, on the file of the Motor Vehicle Accidents Claims Tribunal, (III Judge, Court of Small Causes, Chennai).



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For Appellants : Mrs.Ramya V. Rao

For Respondents : R1 - set exparte

Mr.N.Somasundar for R2

### **J U D G M E N T**

This appeal is filed by the appellant Insurance Company challenging the judgment and decree passed by the Motor Accidents Claims Tribunal/(III Judge, Court of Small Causes, Chennai) in M.C.O.P.No.437 of 2018, dated 22.09.2021.

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

3.The petitioners are the claimants, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.



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4.The brief facts of the case are as follows:

On 14.06.2021 at about 05.45 hours, the deceased was proceeding in Tambaram GST Road, Opposite to Hindu Mission Hospital as a pedestrian, at that time, a Car bearing Registration No.TN-07-CA-8688 which was came from Tambaram to Perungalathur direction and driven by its driver in a rash and negligent manner and hit the deceased. As a result, the deceased was sustained fatal injuries and died on the spot. A case was registered against the car driver in Crime No.382CH3/2017 by S13, Chromepet Traffic Investigation, Tambaram. The petitioners filed a claim petition in M.C.O.P.No.437 of 2018 before the Tribunal, the Tribunal awarded a sum of Rs.14,80,800/- as compensation. Aggrieved the same, the present appeal has been filed.

5.Learned counsel appearing for the appellants submitted that the deceased was a pedestrian and the accident occurred only due to the rash and negligent driving by the driver of the Car bearing Registration No.TN-07-CA-8688. She further submitted that the compensation



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awarded by the Tribunal is very meagre and requested this Court to enhance the compensation. Hence, she prayed for appropriate orders.

6.Per contra, learned counsel for the second respondent submitted that after considering the oral and documentary evidence, the Tribunal awarded the compensation which is just and reasonable and no interference is required by this Court. Hence, he prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only seeking enhancement of compensation. Hence, there is no need for any discussion with regard to negligence.



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9.Before the Tribunal, the first petitioner was examined as PW1, Mr.Shiva, an eye witness to the accident was examined as PW2 and on the side of the petitioners, 12 documents were marked as Exs.P1 to P12. On the side of the respondents, no document was marked and no witness was examined.

10.On perusal of the records, it is seen that the deceased was a pedestrian while crossing the road, a Car bearing Registration No.TN-07-CA-8688 which was came from Tambaram to Perungalathur in a rash and negligent manner and hit the deceased. As a result, the deceased was sustained fatal injuries and died on the spot.

11.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.13,60,800/- for loss of dependency, Rs.15,000/- for loss of estate, Rs.10,000/- for transport expenditure(ambulance), Rs.15,000/- for funeral expenses, Rs.80,000/- for loss of loss of love and affection to the petitioners 1 & 2 and arrived at a total compensation of



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Rs.14,80,800/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

12.It is also seen that the deceased was aged 24 years and working as Trainee Motor Assembly and earning Rs.10,500/- per month at the time of the accident. Considering the facts and circumstances of the case, age and avocation, this Court is inclined to award Rs.21,16,800/- for loss of dependency and the same is works out to  $(Rs.14,000 - 50\% = Rs.7,000 \times 40\% = Rs.2,800 = Rs.9,800 \times 12 \times 18 = Rs.21,16,800/-]$

13.The amount awarded under the heads loss of estate, funeral expenses and loss of love and affection, in the opinion of this Court are just and reasonable and the same are confirmed. The amount awarded under the head loss of dependency, in the opinion of this Court is very meagre and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded under the head loss of dependency is enhanced to Rs.21,16,800/- from Rs.13,60,800/-.



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14. Accordingly, the compensation awarded by the Tribunal is re-assessed as follows:

| S.No. | Description                                                             | Amount awarded by Tribunal (in Rs.) | Amount awarded by this Court (in Rs.) |
|-------|-------------------------------------------------------------------------|-------------------------------------|---------------------------------------|
| 1.    | Loss of dependency                                                      | 13,60,800/-                         | 21,16,800/-                           |
| 2.    | Loss of estate                                                          | 15,000/-                            | 15,000/-                              |
| 3.    | Transport expenditure                                                   | 10,000/-                            | -                                     |
| 4.    | Funeral expenses                                                        | 15,000/-                            | 15,000/-                              |
| 5.    | Loss of love and affection to the petitioners 1 & 2<br>Rs.40,000/- each | 80,000/-                            | 80,000/-                              |
|       | <b>Total</b>                                                            | <b>Rs.14,80,800/-</b>               | <b>Rs.22,26,800/-</b>                 |

15. The appellants/claimants are entitled to total compensation of Rs.22,26,800/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.



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16.The judgment and decree passed by the Motor Accident Claims Tribunal/III Judge, Court of Small Causes, Chennai in M.C.O.P.No.437 of 2018 dated 22.09.2021, is modified to the above extent.

17.The second respondent Insurance Company is directed to deposit the modified/enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants 1 and 2 are permitted to withdraw their share as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

18.The appellants/claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accident Claims Tribunal/III Judge, Court of Small Causes, Chennai, shall disburse the enhanced amount



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upon production of certified copy showing proof of payment of Court fee  
by the appellants/claimants.

19.The Civil Miscellaneous Appeal is partly allowed with the  
above terms. No costs.

16.12.2024

Index: Yes/No  
Speaking order: Yes/No  
Neutral Citation: Yes/No  
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To

- 1.The Motor Accidents Claims Tribunal,  
(III Judge, Court of Small Causes, Chennai).
- 2.The Section Officer,  
VR Section,  
High Court of Madras, Chennai – 600 104.



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**M.DHANDAPANI, J.**

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