



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 12.04.2024**

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**CORAM**

**THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

**CMA No.905 of 2024**

1.Devagi

2.Ramesh

3.Sangeetha

4.Bharathi

5.Saravanan

..Appellants

[Cause Title accepted vide Court order dated 22.11.2023 made in CMP No.26377 of 2023 in CMA SR No.141907 of 2023]

.vs.

1.R.Suresh

2.United India Insurance Co., Ltd,  
No.134, Greams Road,  
IV Floor, Anna Salai,  
Chennai.

..Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 07.08.2021 made in MACTOP No.7644 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.2, Motor Accident Claims Petitions), Small Causes Court, Chennai.



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For Appellant : Ms.A.Subadra

For Respondents : Mr.J.Michael Visuvasam for R2

### **JUDGMENT**

The claimants not being satisfied with the quantum of compensation fixed by the Motor Accident Claims Tribunal, Chennai in MACTOP No.7644 of 2017, dated 07.08.2021, have filed the present appeal seeking for enhancement of compensation.

2.The claimants are the wife and children of the deceased Raji @ Govindaraj. The deceased was walking as a pedestrian on 10.08.2017 and at about 5.15 a.m., he was crossing the road near Karneeswarar Temple at Kamarajar Salai. At that point of time, the tempo van which was driven by the 1<sup>st</sup> respondent in a rash and negligent manner dashed on the deceased and he was thrown away and he sustained grievous injuries. Unfortunately, he succumbed to the injuries on the same day. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the



tempo van driven by the 1<sup>st</sup> respondent. Having rendered such a finding, the Tribunal proceeded to fix the compensation and the total compensation was fixed at Rs.13,19,000/- in the following manner:

| <b>Compensation awarded under the head</b> | <b>Amount (in Rs.)</b> |
|--------------------------------------------|------------------------|
| Total loss of dependency                   | 10,89,000              |
| Loss of Consortium                         | 2,00,000               |
| Loss of Estate                             | 15,000                 |
| Funeral Expenses                           | 15,000                 |
| <b>Total Compensation fixed at</b>         | <b>13,19,000</b>       |

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal seeking for enhancement of compensation.

5.Heard Ms.A.Subadra, learned counsel appearing on behalf of the appellants and Mr.J.Michael Visuvasam, learned counsel appearing on behalf of the 2<sup>nd</sup> respondent.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.



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7. In the considered view of this Court, the only area which requires the interference of this Court is with regard to the notional monthly income that was fixed by the Tribunal. The Tribunal had fixed the notional monthly income at Rs.10,000/- per month and had added 10% towards future prospects, considering the age of the deceased. The notional monthly income is on a lower side, since the accident had taken place in the year 2017 and the deceased at relevant point of time was aged about 53 years and there were nearly four dependent viz., the wife and three children who were dependent on the income of the deceased. Therefore, this Court is inclined to fix the notional monthly income at Rs.13,500/- and 10% is added towards future prospects and total monthly income is arrived at a sum of Rs.14850/-. Thus, the total compensation towards loss of dependency is Rs.14,70,150/- [(Rs.14850 x 12 x 11 = 19,60,200/-) -  $\frac{1}{4}$  = Rs.14,70,150/-].

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

| <b>Compensation awarded under the head</b> | <b>Amount (in Rs.)</b> |
|--------------------------------------------|------------------------|
| Total loss of dependency                   | 14,70,150              |
| Loss of Consortium                         | 2,00,000               |
| Loss of Estate                             | 15,000                 |



| Compensation awarded under the head | Amount (in Rs.)  |
|-------------------------------------|------------------|
| Funeral Expenses                    | 15,000           |
| <b>Total Compensation fixed at</b>  | <b>17,00,150</b> |

9.The compensation awarded by the tribunal at Rs.13,19,000/- is enhanced to Rs.17,00,150/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.17,00,150/-, 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. Insofar as the enhanced compensation of Rs.3,81,150/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 520 days as was ordered by this Court in C.M.P.No.28066 of 2023, dated 01.02.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

10.This Civil Miscellaneous Appeal is disposed of in the above terms. No costs.

**12.04.2024**

Index : Yes/No  
Speaking Order/Non-Speaking Order  
Neutral citation : Yes/No  
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**N. ANAND VENKATESH., J**

SSR

To

The Motor Accident Claims Tribunal,  
Special Sub Court No.2, Motor Accident Claims Petitions),  
Small Causes Court, Chennai.

**CMA No.905 of 2024**

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