



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

WEB C **M.DHANDAPANI, J.**

Today, this matters are listed under the caption “For Being Mentioned” at the instance of the learned counsel for the parties.

2. When the matters were taken up for hearing, it was brought to the notice of this Court that, this Court, vide common judgment dated 20.11.2024 allowed the appeals in CMA.Nos.1060 and 1063 of 2020 in part and dismissed the appeals in CMA.Nos.1055 and 1062 of 2020. However, in the paragraph 16, inadvertently, a typographical error has crept in wherein the notional income of the deceased in respect of CMA.No.1060 of 2020 was wrongly taken as Rs.4,500/- instead of Rs.6,000/- and the compensation under the head Loss of love and affection was wrongly mentioned as Rs.2,50,000/- instead of Rs.1,25,000/- and as a result, the total compensation payable to the appellants therein was arrived at Rs.6,80,950/-, which requires to be corrected. Further, inadvertently paragraph 22 has been mentioned as 21, which also required to be corrected.

3. This Court perused the order dated 20.11.2024, more particularly paragraphs 16, 18 and 21 of the said order and finds a typographical error



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

wherein under the head Loss of dependency, though the amount enhanced is Rs.5,34,600/-, however, it is erroneously typed as Rs.4,00,950/-, as the notional income was wrongly taken as Rs.4,500/- instead of Rs.6,000/- and the paragraph No.21 has been repeated twice and thereby, the last paragraph of the above said judgment shall stand corrected as paragraph No.22. Accordingly, paragraphs 16, 18 and 21 of the said order, shall stand replaced with the following paragraphs:

“16. In respect of MCOP. No.1060 of 2020 is concerned, the deceased was aged about 58 years at the time of the accident and she was doing agricultural work and earning a sum of Rs.6,000/- per month. However, the Tribunal has fixed the notional monthly income at Rs.3,000/- including future prospects since there was no proof regarding the avocation or the monthly income of the deceased. The accident had taken place on 05.08.2012 and the notional monthly income fixed by the Tribunal is very much on the lower side. Considering the age of the deceased, the age of the claimants and also the year in which the accident had taken place, this Court is inclined to fix the notional monthly income at **Rs.6,000/-**. The age of the deceased was 58 years and therefore, 10% is added towards future prospects as per the decision of Pranay sethi. If so, the loss of income /dependency would be:

Monthly Income	:	Rs. 6,000/-
Add: Future Prospects	:	Rs. 600/-
10% of Rs.6,000/-		



WEB COPY



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

Rs. 6,600/-
Annual Income : Rs. 79,200/-
(6,600 * 12)
Less : Personal expenses
Rs.79,200/- * 1/4 : Rs. 19,800/-

Rs. 59,400/-
Multiplier : x 9

Loss of income/dependency : **Rs.5,34,600/-**

.....

18. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	1,92,000	5,34,600
Transportation	5,000	
Loss of Love and affection	15,000	1,25,000
Funeral Expenses	10,000	15,000
Loss of estate		15,000
Pain and sufferings	10,000	
Total	2,32,000/-	6,89,600/-



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

WEB COPY

.....

21. In respect of CMA. No.1060 of 2020, the compensation awarded by the Tribunal at Rs.2,32,000/- is enhanced to **Rs.6,89,600/-**. The liability fixed by the Tribunal is confirmed. The second respondent is directed to deposit the entire enhanced award amount, 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 is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The appellants are entitled to get the award amount equally along with proportionate interest and costs.”

4. All the other observations made in the earlier order dated 20.11.2024 shall remain intact.

5. Registry is directed to carry out the necessary corrections as aforesaid in the judgment dated 20.11.2024 and issue fresh copy of the order to the learned counsel for the parties.

05.03.2025

skt

Note to office: Issue order copy on 06.03.2025.



WEB COPY



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

M.DHANDAPANI, J.

skt

C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

05.03.2025



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.1055, 1060,

1062 & 1063 of 2020

CMA. No.1055 of 2020:

Babu

... Appellant

Vs.

1.Durai

2.The Divisional Manager

New India Assurance Company Limited

Arcot Woodlands Complex

2nd Floor, Bharathi Road

Cuddalore.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decretal order dated 23.12.2016 made in MCOP.No.18 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Court), Panruti.

CMA. No.1060 of 2020:

1.Babu

2.Ambiga



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

3.Chitra

4.Vijayarani

5.Sudha

... Appellants

Vs.

1.Durai

2.The Divisional Manager

New India Assurance Company Limited

Arcot Woodlands Complex

2nd Floor, Bharathi Road

Cuddalore.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decretal order dated 23.12.2016 made in MCOP.No.24 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Court), Panruti.

CMA. No.1062 of 2020:

Devi

... Appellant

Vs.

1.Durai

2.The Divisional Manager

New India Assurance Company Limited

Arcot Woodlands Complex

2nd Floor, Bharathi Road

Cuddalore.

... Respondents



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decreetal order dated 23.12.2016 made in MCOP.No.19 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Court), Panruti.

CMA. No.1063 of 2020:

1.Babu

2.Devi

3.Minor Stalin

Represented by Father and guardian the 1st appellant Babu

... Appellant

Vs.

1.Durai

2.The Divisional Manager

New India Assurance Company Limited

Arcot Woodlands Complex

2nd Floor, Bharathi Road

Cuddalore.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decreetal order dated 23.12.2016 made in MCOP.No.25 of 2013 on the file of the Motor Accident Claims Tribunal (Sub Court), Panruti.

For Appellant : Mr.T.Dhanyakumar (in all the appeals)



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

For Respondents : Mr.S.Dakshinamoorthy for R2

(in all the appeals)

COMMON JUDGMENT

These appeals have been filed by the claimants seeking enhancement of compensation in the judgment and decree in MCOP Nos.18, 24, 19 and 25 of 2013 dated 23.12.2016 on the file of the Motor Accident Claims Tribunal, Sub Court, Panruti.

2. It is the case of the claimants that on 05.10.2012 at about 20.30 hours, one Babu, appellant in CMA. No.1055 of 2020 was driving the auto along with his wife, mother and son, at that time, the first respondent lorry bearing Reg. NoTN 32 M 5391 came from opposite direction in a rash and negligent manner and dashed against the Babu's Auto, due to which, the said Babu and Devi/wife sustained injuries and his mother chinnaponnu and son Gokul died on the spot. Thereby, the claimants filed separate claim petitions before the Motor Accidents Claims Tribunal claiming respective compensation.

3. Before the Tribunal, during trial, in order to prove the case, on the side of the claimants, four witnesses were examined viz., PW1 to PW4 and 11 documents viz., Exs.P1 to P11 were marked. On the side of the respondents, no



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

witness was examined and no document was marked. The Tribunal, considering the oral and documentary evidence, allowed the petitions in part and awarded respective compensation to the claimants. Aggrieved by the said common award, the claimants have filed these appeals seeking enhancement of compensation.

4. The learned counsel for the appellant in CMA. No.1055 of 2020 submitted that the appellant sustained grievous injuries and he could not do any work after the accident, however, the Tribunal erred in awarding a sum of Rs.15,000/- which is inadequate. This Court may interfere with the award passed by the Tribunal.

5. The learned counsel for the appellants in CMA. No.1060 of 2020 submitted that the age of the deceased as per Ex.A-3/post morter certificate is 50 years and the Tribunal erred in fixing the age of the deceased as 58 and the deceased Chinnaponnu was earning a sum of Rs.6,000/- per month, however, the Tribunal erred in fixing Rs.3,000/- as monthly income, which is very low. Further, the Tribunal has erred in fixing 8 as multiplier and ought to have fixed atleast 12. This Court may interfere with the award passed by the Tribunal.



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

6. The learned counsel for the appellant in CMA. No.1062 of 2020 submitted that the appellant sustained grievous injuries and she could not do any work after the accident, however, the Tribunal erred in awarding a sum of Rs.10,000/- which is inadequate. This Court may interfere with the award passed by the Tribunal.

7. The learned counsel for the appellants in CMA. No.1063 of 2020 submitted that the deceased was studying in school and failed to note the future prospects of the deceased child. The Tribunal erred in granting only Rs.3,15,000/-. This Court may interfere with the award passed by the Tribunal.

8. The learned counsel for the second respondent submitted that the accident had happened due to the accident of the driver of the lorry. The compensation awarded to the injured are highly excessive, which needs interference. The award passed in respect of the deceased are just and proper, which is also not interfered with.

9. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing for the appellant.



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

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

11. This Court also carefully went through the award passed by the Tribunal.

12. The factum of the accident is not disputed by the parties. The claimants has filed the batch of appeals seeking enhancement of compensation.

13. Admittedly, the appellant in CMA.No.1055 of 2020 was driving an auto along with his family members. While he was driving, the first respondent's lorry driven by its driver and insured with the second respondent, dashed against the auto, due to which, two persons died, and three persons sustained injuries. The Tribunal has awarded compensation to the claimants. For enhancement of compensation, the appeals have been filed.

14. The only issue that arises for consideration is whether the quantum of compensation awarded by the Tribunal is reasonable or not.



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

15. In respect of MCOP. No.1055 and 1062 of 2020 are concerned, the injured claimants are sustained simple injuries. After considering the wound certificate and discharge summary, the Tribunal has awarded a sum of Rs.15,000/- and Rs.10,000/- respectively to the appellants, which is just and reasonable and the same does not warrant any interference by this Court. Therefore, the CMA. Nos.1055 and 1062 of 2020 are liable to be dismissed.

16. In respect of MCOP. No.1060 of 2020 is concerned, the deceased was aged about 58 years at the time of the accident and she was doing agricultural work and earning a sum of Rs.6,000/- per month. However, the Tribunal has fixed the notional monthly income at Rs.3,000/- including future prospects since there was no proof regarding the avocation or the monthly income of the deceased. The accident had taken place on 05.08.2012 and the notional monthly income fixed by the Tribunal is very much on the lower side. Considering the age of the deceased, the age of the claimants and also the year in which the accident had taken place, this Court is inclined to fix the notional monthly income at Rs.4,500/-. The age of the deceased was 58 years and therefore, 10% is added towards future prospects as per the decision of *Pranay sethi*. If so, the loss of income /dependency would be:



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

Monthly Income	:	Rs. 4,500/-
Add: Future Prospects	:	Rs. 450/-
10% of Rs.4,500/-		-----
		Rs. 4,950/-
Annual Income	:	Rs. 59,400/-
(4,950 * 12)		
Less : Personal expenses		
Rs.59,400/- * 1/4	:	Rs. 14,850/-

		Rs. 44,550/-
Multiplier	:	x 9

Loss of income/dependency	:	Rs.4,00,950/-

17. The Tribunal has awarded a sum of Rs.10,000/- towards Funeral expenses and awarded Rs.15,000/- towards loss of love and affection and the same are very meager. This Court is inclined to modify the same as Rs.15,000/- towards funeral expenses and Rs.1,25,000/- towards loss of love and affection as there are five legal heirs to the deceased. The Tribunal has not awarded any compensation towards loss of estate. This Court is inclined to fix a sum of Rs.15,000/- towards loss of estate. Further, the Tribunal has awarded a sum of



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

Rs.5,000/- and Rs.10,000/- towards transportation and pain and sufferings, which are unwarranted.

18. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	1,92,000	4,00,950
Transportation	5,000	
Loss of Love and affection	15,000	2,50,000
Funeral Expenses	10,000	15,000
Loss of estate		15,000
Pain and sufferings	10,000	
Total	2,32,000/-	6,80,950/-

19. In respect of CMA No.1063 of 2023 is concerned, the deceased, who is the minor, aged about 14 years, died due to the accident. The Tribunal has awarded a sum of Rs.3,15,000/- to the parents, which is very low. As per the decision of the Hon'ble Apex Court in the case of Kishan Gopal, the award



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

amount has to be increased. Hence, this Court is inclined to award lumpsum of

Rs.7,00,000/- to the claimants.

20. In the result, CMA. Nos.1055 and 1062 of 2020 are dismissed. CMA. Nos.1060 and 1063 of 2020 are partly allowed. No costs.

21. In respect of CMA. No.1060 of 2020, the compensation awarded by the Tribunal at Rs.2,32,000/- is enhanced to Rs.6,80,950/-. The liability fixed by the Tribunal is confirmed. The second respondent is directed to deposit the entire enhanced award amount, 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 is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The appellants are entitled to get the award amount equally along with proportionate interest and costs.

21. In respect of CMA. No.1063 of 2020 is concerned, the compensation awarded by the Tribunal at Rs.3,15,000/- is enhanced to Rs.7,00,000/-. The



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

liability fixed by the Tribunal is confirmed. The second respondent is directed to deposit the entire award amount, 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 is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The appellants are entitled to get the award amount equally along with proportionate interest and costs.

20.11.2024

rli

To

The Motor Accident Claims Tribunal (Sub Court), Panruti.



WEB COPY



C.M.A.Nos.1055, 1060, 1062 & 1063 of 2020

M.DHANDAPANI..J

rli

Civil Miscellaneous Appeal No.1055,
1060, 1062 & 1063 of 2020

20.11.2024