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CMA No. 641 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 641 of 2023

1. Amitha Gani

W/O.Late Iqbal, No.12/24, Thaiyappan
Mudali St, Seven Wells, Broadway,
Chennai 01.

Appellant(s)

Vs

1. K.R.Premchand

S/O.P.K.Rajagopalan, NO.7/4B, 13th
Cross St, New Colony, Chrompet,
Chennai 44.

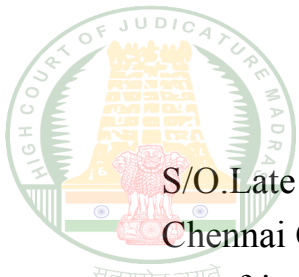
2.Royal Sundaram Genereal Insurance
Co Ltd

Legal Department, Subramaniam
Building, 2nd Floor, NO.1, Club House
Road, Anna Salai, Chennai 02.

3.Jenifer Saburiya

W/O.Late Iqbal, No.19/37, St.Xavier
St, Chennai Centra Post, CH 01.

4.Minor Sheik Mujeebur Rahman



S/O.Late Iqbal, No.19/37, St.Xavier St,
Chennai Centra Post, CH 01, Rep by
next friend and natural guardian their
mother, the 3rd Respondent herein.

5.Minor Mohamed Hariff
S/O.Late Iqbal, No.19/37, St.Xavier St,
Chennai Centra Post, CH 01, Rep by
next friend and natural guardian their
mother, the 3rd Respondent herein.

Respondent(s)

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PRAYER

To enhance the amount awarded in MCOP NO.7334 of 2017 dated 29.07.2021 on the file of Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai.

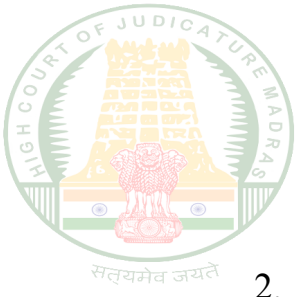
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For Appellant(s): Mr.K.Varadha Kamaraj

For Respondent(s): Mr.R. Asokan For R 1
Mr.G.Vasudevan For R2
Mr.R.Navaneetha Krishnan For
R3 To R5

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to enhance the amount awarded in MCOP NO.7334 of 2017 dated 29.07.2021 on the file of Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai.



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2. On 31.07.2017 at about 00.05 hours when the deceased Iqbal was rideing the motorcycle bearing registration No. TN 04 ZQ9160 on the left side near hotel Grand Palace, MIT Bridge GST Road, Chrompet, Chennai, a car bearing Registration No. TN 11 R 4929 proceeding from Chrompet to Tambaram direction being driven in a rash and negligent manner by its driver and dashed against the motorcycle, due to which he was thrown out of the MIT bridge and sustained head injuries and died on the spot. Thereafter, the claimants filed the petition before the tribunal claiming compensation and the second respondent insurance company contested the case by filing counter. After considering the oral and documentary evidence, the tribunal awarded compensation. Challenging the quantum of compensation the claimant filed this appeal.

3. The learned counsel for the claimant submits that at the time of the accident the driver of the car driven the vehicle in a rash and negligent manner with drunken mode dashed against the deceased thereby the deceased sustained fatal injuries and died but the tribunal has erroneously fixed 50% liability upon



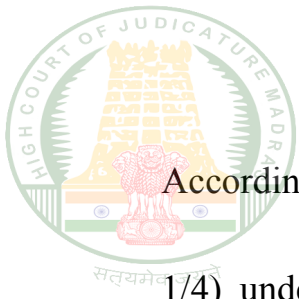
the deceased as such is erroneous and liable to be set aside. Hence, he prays to set aside the award passed by the tribunal.

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4. The learned counsel for the second respondent submits that at the time of the accident in stead of taking U-turn deceased suddenly turned right towards south on the Easter arm of the MIT bridge in wrong side thereby accident was happened. Therefore, the tribunal rightly fixed 50% contributory negligence upon the deceased which needs no interference and there is no material evidence to prove that the driver of the car driven the vehicle with drunken mode.

5. Heard both sides.

6. Admittedly the deceased entered into the wrong way and according to the second respondent in order to avoid long distance the deceased has entered into the bridge in the wrong side. But the tribunal has fixed 50% contributory negligence upon the deceased which is excessive. Therefore, this Court is inclined to fix 20% contributory negligence upon the deceased. Further, considering the cost of living at the time of the accident, this Court is inclined to fix Rs.16,000/- as notional income of the deceased with 25% future prospectus.



Accordingly, the claimant is entitled to Rs. 23,40,000/-(16000+4000x12x13-1/4) under the head of loss of dependency. Except above modification, the

award passed by the tribunal in other heads remain unchanged.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of dependency	Rs.14,91,672/-	Rs.23,40,000/-
2.	Loss of estate	Rs.15,000/-	Rs.15,000/-
3.	Loss of consortium	Rs.1,60,000/-	Rs.1,60,000/-
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-
5.	Transportation charges	Nil	Nil
	Total	Rs.16,81,672/-	Rs.25,30,000/-

7. After deducting 20% towards contributory negligence, the claimant is entitled to Rs. 20,24,000/-. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs. 20,24,000/-. The 2nd respondent is directed to deposit the said amount - together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP NO.7334 of 2017 on the file of Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai., within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the appellant/claimant is permitted to withdraw the award amount by making



formal application before the Tribunal. The respondent may deduct the amount, if any amount has already deposited before the tribunal.

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8. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Motor Accident Claims Tribunal (Chief Small Causes Court), Chennai.
2. The Section officer, V. R Section, High Court, Madras.



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T.V.THAMILSELVI J.
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