



C.M.A.No.242 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.242 of 2025

1.J.Kanniammal

2.Lakshmi

3.N.Valarmathi

4.R.Vasuki

5.N.Chithra

6.N.Mohan Raj

7.N.Yuvashree

... Appellants

Vs.

1.P.Dhinesh Kumar

2.The Manager,
HDFC ERGO General Insurance Company Limited,
No.94/95, RR Tower II, 2nd Floor,
T.V.K.Industrial Estate, Guindy,
Chennai-600 032.

... Respondents



C.M.A.No.242 of 2025

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.10.2024 made in M.C.O.P.No.2867 of 2022 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellants : Mr.R.Mohan Babu

For Respondents : R1-Exparte before the Tribunal
Mr.S.Arun Kumar for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed challenging the judgment and decree dated 25.10.2024 passed in M.C.O.P.No.2867 of 2022 by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

2. On 11.02.2020 at about 10.30 hours, when the deceased, namely, Patrose, was walking in Nerkundram Poonamallee High Road, a lorry bearing Registration No.TN 57 BU 2363 belonging to the first respondent came in the same road and was driven by its driver in a rash and negligent manner and hit against the deceased, due to which, she fell down



C.M.A.No.242 of 2025

on the road and sustained severe head injury and was taken to hospital, but she died in the hospital. The second respondent is the insurer of the first respondent's vehicle. Under these circumstances, the claim petition came to be filed by the claimants/daughters, daughter-in-law, grand son and grand daughter of the deceased, before the Tribunal seeking for compensation.

3. Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 were examined and Exs.P1 to P14 were marked. On the side of the respondents, no witness was examined and no document was marked. 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 driver of the first respondent and since the claimants 5 to 7 are the daughter-in-law, grand son and grand daughter of the deceased and their names were not found in the Legal Heir Certificate of the deceased and are not dependents of the deceased, they were not entitled to get compensation and the claimants 1 to 4 alone, who are the daughters of the



C.M.A.No.242 of 2025

deceased, were alone entitled to get compensation. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.2,63,600/- under various heads. The above compensation was directed to be paid by the second respondent along with interest at 7.5% p.a.

4. Aggrieved over the same, the claimants have preferred this appeal seeking compensation.

5. The learned counsel appearing for the appellants submitted that the Tribunal has erred in awarding a meager compensation to the appellants 1 to 4 and rejecting the claim against the appellants 5 to 7. The Tribunal has not adopted the multiplier method in this case as per ***Sarla Verma & Others. Vs. Delhi Transport Corporation & Others (2009 (6) SCC 121)***. He further submitted that the compensation awarded under the other heads is also on the lower side and the same is liable to be enhanced. He further submitted that the second respondent has deposited the entire compensation amount before the Tribunal.



C.M.A.No.242 of 2025

6. The first respondent remained *ex-parte* before the Tribunal.

7. Per contra, learned counsel appearing for the second respondent / Insurance company vehemently contended that the deceased was aged about 75 years, however, the Tribunal has taken the monthly income of the deceased as Rs.14,600/- per month without any proof to substantiate the income and further the compensation awarded under the other heads is also on the higher side. Hence, he prays for dismissal of this appeal.

8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. The first issue raised in this appeal is with regard to not grant of compensation to the appellants 5 to 7.



C.M.A.No.242 of 2025

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10. It is seen from the records that the appellants 5 to 7 are the daughter-in-law, grand son and grand daughter of the deceased and they are the second class legal heirs and not first class legal heirs. They are not the dependents of the deceased and their names were also not found in the Legal Heir Certificate of the deceased, therefore, the Tribunal has not granted any compensation to the appellants 5 to 7, which does not require any interference.

11. The next issue is relating to the quantum of compensation awarded by the Tribunal to the appellants 1 to 4.

12. In the instant case, the deceased was aged about 75 years and was working as housemaid. Though it is claimed that she was earning a sum of Rs.15,000/- per month, no proof was produced before the Tribunal and the Tribunal has taken the monthly income of the deceased as Rs.14,562/- without any basis and therefore, the same is reduced to Rs.5,000/-. Since the deceased was aged about 75 years, personal expenses will not arise and the



C.M.A.No.242 of 2025

WEB COPY

legal representatives would have taken care of the deceased, if she was alive. The Tribunal has not applied the multiplier method and therefore, in terms of *Sarla Verma & Others. Vs. Delhi Transport Corporation & Others (2009 (6) SCC 121)*, the multiplier '5' has to be adopted in this case. If so, the loss of income/dependency would be at Rs.3,00,000/- (Rs.5,000/- * 12* 5).

13. Insofar as the compensation awarded by the Tribunal under the head 'funeral expenses' and 'loss of estate' is concerned, the same is on the lower side and is enhanced to Rs.16,500/- and Rs.16,500/-. The compensation awarded under the head 'loss of parental consortium to the first to fourth appellants' does not require any interference by this Court.

14. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:



C.M.A.No.242 of 2025

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Loss of Dependency	Rs.87,600/-	Rs.3,00,000/-
2.	Loss of Parental Consortium for the first to fourth appellants	Rs.1,60,000/-	Rs.1,60,000/-
3.	Funeral Expenses	Rs.15,000/-	Rs.16,500/-
4.	Loss of Estate	Rs.1,000/-	Rs.16,500/-
	Total	Rs.2,63,600/-	Rs.4,93,000/-

15. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.2,63,600/- is hereby enhanced to Rs.4,93,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2867



C.M.A.No.242 of 2025

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of 2022 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai. On such deposit, the appellants 1 to 4 are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn, as per the apportionment fixed by the Tribunal by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

31.01.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb



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C.M.A.No.242 of 2025

To

- 1.The Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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C.M.A.No.242 of 2025

M.DHANDAPANI, J.

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C.M.A.No.242 of 2025

31.01.2025