



CMA.No.69 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM

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

CMA.No.69 of 2025

1. Mariola Nisha
 2. Rajendra Prasad
- ...Appellants

Vs.

1. G.Ram Kumar
 2. The Oriental Ins.Co.Ltd.,
Third Party Claims Hub, Oriental House, II Floor,
New No.216, Prakasam Salai,
Broadway, Chennai – 600 108.
- ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation awarded in the Judgment and Decree, dated 03.10.2024, passed in M.C.O.P.No.2226 of 2021, on the file of the Motor Accident Claims Tribunal, In the Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.R.Mohan Babu

For Respondents : Mr.J.Chandran for R2

JUDGMENT

Challenging the judgment and decree dated 03.10.2024 passed in M.C.O.P.No.2226 of 2021 on the file of the Motor Accident Claims Tribunal, In the Chief Judge, Court of Small Causes, Chennai, the claimants have filed the above appeal seeking enhancement of compensation.



2. In view of the judgment being passed, notice to the first respondent is dispensed with.

3. It is the case of the claimants that, on 11.09.2020, at about 8.00 hours, when the deceased was travelling as a pillion rider in the motorcycle bearing Regn.No.TN 07 CM 8202, at that time, a Tanker Lorry bearing Regn.No.TN 18 AK 9464, driven by its driver belonging to the first respondent in a rash and negligent manner had hit the vehicle in which the deceased was travelling, due to which the deceased sustained grievous head injuries and was succumbed to death. Thereby, the appellants, who are the parents of the deceased filed a claim petition in M.C.O.P.No.2226 of 2021 claiming a compensation of Rs.35,00,000/-.

4. Before the Tribunal, the claimants examined P.W1 and P.W.2 and marked Exs.P.1 to P.21. On behalf of the respondents, they examined R.W.1 and marked Exs.R1 and R2. After trial, the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent's lorry and awarded Rs.7,20,000/- towards compensation for the death of the deceased. Being not satisfied with the quantum of compensation



CMA.No.69 of 2025

awarded by the Tribunal, the appellants/claimants have come up with this appeal seeking enhancement of compensation.

5. Learned counsel for the appellants submitted that the above said accident happened solely due to the rash and negligent driving on the part of the driver of the 1st respondent's lorry and the accident is of the year 2020. Admittedly, at the time of accident, the deceased was only aged about 5 years (minor) and the tribunal had taken the notional income of the deceased following the decision of ***Kishan Gopal and another Vs. Lala and others reported in 2014 1 SCC 244***. Though in the said case, a sum of Rs.30,000/- was taken as notional income for a boy of 10 years who died in the year 1992, however, in the present case on hand, the accident is of the year 2020, without considering the cost of living, the Tribunal has fixed the yearly income of the child at Rs.40,000/- which is very meagre. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

6. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant



CMA.No.69 of 2025

documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

7. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties and the parties have not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same.

9. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2020 and at the time of accident, the deceased was aged about 5 years. As per the above Judgment, insofar as children are concerned, only a consolidated notional income can be fixed and the income cannot be fixed like how it is fixed to an adult. That apart, there is no question of determining the monthly income and adding future prospects towards the same.

10. As per the judgement of Hon'ble Apex Court in the case of ***Kishan Gopal and another Vs. Lala and others reported in 2014 1 SCC 244***, the Apex



CMA.No.69 of 2025

Court had directed a sum of Rs.30,000/- to be fixed as annual income for the children below 10 to 15 years for the accident which had taken place in the year 1992. In view of the same, this Court has to necessarily keep in mind the raise in price index and the cost of living and accordingly, the amount has to be increased. Without considering, the same, the Tribunal has fixed only a sum of Rs.40,000/- as annual income of the deceased for the accident which happened on the year 2020, which is wholly unsustainable.

11. In a recent judgement in the case of R.Booma and others Vs.Rengasamy and others in Manu TN 191 2023, the learned single Judge of this Court had fixed the yearly income of the child, who was a minor girl aged about five years as Rs.60,000/- for the accident which had taken place in the year 2015. Applying the ratio laid down by this Court, the annual income in this case can be fixed at Rs.60,000/- and since multiplier 15 was applied to the multiplicand for the aforesaid decision of this Court, the very same multiplier would be fixed to the present case on hand as well.

12. Considering the above annual income fixed, the loss of income will work out to a sum of Rs.60,000/- x 15 = 9,00,000/-. Insofar as the compensation awarded under the other heads are concerned, this Court is of the



view that the compensation awarded under other heads are just and reasonable and the same does not requires interference of this Court.

13. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	6,00,000/-	9,00,000/- (enhanced)
Loss of Estate	15,000/-	15,000/-
Loss of Consortium	80,000/-	80,000/-
Funeral expenses	15,000/-	15,000/-
Transportation charges including damages to personal belongings	10,000/-	10,000/-
Total	7,20,000/-	10,20,000/-

14. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.2226 of 2021 is modified by enhancing the compensation amount from Rs.7,20,000/- to **Rs.10,20,000/-**. The 2nd respondent Insurance is directed to deposit the said amount to the credit of MCOP.No.2226 of 2021 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and



CMA.No.69 of 2025

costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants/claimants through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. The compensation awarded by this Court shall be apportioned among the appellants equally, with proportionate interest and costs. No costs.

22.01.2025

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



WEB COPY



CMA.No.69 of 2025

M.DHANDAPANI, J.

rap

To:

1. Motor Accident Claims Tribunal, In the Chief Judge, Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras.

CMA.No.69 of 2025

22.01.2025