



C.M.A.No.907 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

CORAM

THE HON'BLE Mr. JUSTICE S. SOUNTHAR

C.M.A.No.907 of 2023

1.Malliga

2.Ranganathan

3.Rammianandhini

4.Madhunanthan

.. Appellants

Vs.

1.S.Karikalani

2.I.C.I.C.I Lombard Motor Insurance
Chotabai Centre, 140, 2nd and 3rd Floor
Nungambakkam High Road
Chennai 600 034

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.11.2012 passed by the Motor Accident Claims Tribunal (I Additional District Judge), Cuddalore, in M.C.O.P.No.1633 of 2010.

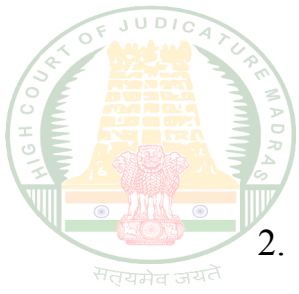
For Appellants : Mr.R.Nalliyappan

For 1st Respondent : No appearance

For 2nd Respondent : Mr.B.Sivakolappan

J U D G M E N T

Not satisfied with the quantum of compensation, the claimants have come before this Court seeking enhancement.



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2. It is the case of the appellants/claimants that the deceased viz., Mallinathan is the son of the claimants 1 and 2 and brother of the claimants 3 and 4. He died in a road accident which occurred on 23.03.2010. According to them, he was riding a two-wheeler from Puducherry to Cuddalore by following the traffic rules and regulations. When he came near VIP Nagar, Kannikoil, Cuddalore Main Road, the car belonged to the 1st respondent insured with the 2nd respondent, came in a rash and negligent manner, dashed against the two-wheeler from the backside. As a result of this accident, Mallinathan sustained grievous injuries and died. Hence, a claim petition was filed seeking compensation of Rs.75,00,000/-.

3. The respondents filed counter and resisted the claim petition on the ground that the accident had occurred only due to the negligence of the deceased.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the car belonged to the 1st respondent insured with the 2nd respondent and the compensation payable to the claimants was quantified at Rs.13,45,000/-. Not satisfied with the quantum, the claimants are before this Court.



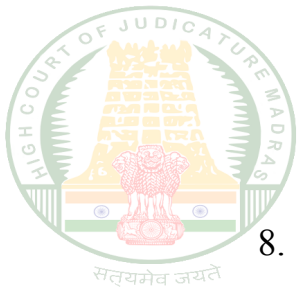
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5. Both the learned counsel appearing for the appellants/claimants and the learned counsel appearing for the 2nd respondent insurance company have not raised any points on the basis of negligence and liability. Therefore, the facts necessary to decide those questions are not considered in this appeal.

6. The learned counsel appearing for the appellants/claimants submitted that the deceased was a B.E. (Mechanical) graduate, capable of earning lucrative salary and hence, the Tribunal has committed an error in taking his monthly salary at Rs.15,000/-. Further, the Tribunal applied wrong multiplier of 11, instead of 18. The learned counsel also submitted that the amount awarded by the Tribunal under conventional damages require enhancement.

7. The learned counsel appearing for the 2nd respondent insurance company submitted that though the claimants produced the appointment letter (Ex.P10), admittedly, the deceased failed to join the said employment within the time fixed therein. Therefore, the deceased should have been considered as unemployed, at the time of accident. Hence, according to him, the Tribunal was justified in fixing Rs.15,000/- towards notional income.



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8. The Convocation Certificate (Ex.P7) issued to the deceased would establish that he was a B.E. (Mechanical) graduate and a reading of the appointment letter (Ex.P10) sent to him by one S.K. Industries would indicate that he was offered with salary of Rs.8,000/- per month during the training period of three months and Rs.20,000/-, thereafter. However, in the appointment letter dated 18.02.2010, the deceased was directed to join the duty on 03.03.2010. As admitted by the 2nd claimant, who was examined as P.W.1, the deceased failed to join the employment within the time stipulated in the appointment letter (Ex.P10). Therefore, based on the appointment letter (Ex.P10), we cannot presume that the deceased was in employment and was earning.

9. Ex.P11 is an overseas offer letter produced by the claimants. A perusal of the same would indicate that the deceased was invited for a discussion regarding the scope of work and challenges. It further reads that the deceased may have to stay at Kuwait initially for a period of three months and if mutually agreeable, then, a contract will be entered into for a period of two years. Therefore, I cannot come to a conclusion that Ex.P11 (overseas offer letter) was a certain offer made to the deceased. However, taking into consideration Ex.P10 (appointment letter) and Ex.P11 (overseas offer letter), this Court can

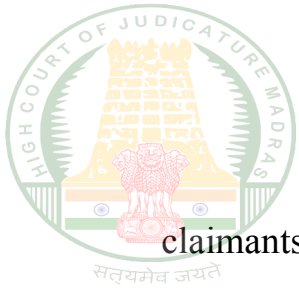


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certainly come to the conclusion that the deceased has got good future and opportunity to earn more. In such circumstances, even though the deceased was not in employment, Rs.15,000/- as notional income fixed by the Tribunal, cannot be held to be an excess one. Having regard to date of accident and potentiality of deceased to earn, I feel that amount of Rs.15,000/- fixed by the Tribunal is fair and reasonable one.

10. However, the Tribunal had committed an error in not awarding compensation under the head future prospects. The Tribunal fixed the age of the deceased as 22 years, based on the post-mortem certificate (Ex.P3). Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 18. Since the deceased died as a bachelor, half of the amount has to be deducted towards personal expenses and hence, the compensation towards loss of dependency is fixed at Rs.22,68,000/- $(15,000 \times 1.4 \times 12 \times 18 \times 1/2)$.

11. In addition to the above said amount, the claimants 1 and 2 being parents of the deceased are entitled to Rs.40,000/- each towards parental consortium and the claimants 3 and 4, who are siblings of the deceased are entitled to Rs.40,000/- each towards loss of love and affection. That apart, the



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claimants are entitled to Rs.30,000/- under the heads loss of estate and funeral

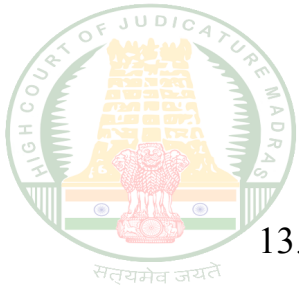
expenses as per the law laid down in *National Insurance Co. Ltd. Vs. Pranay*

Sethi and Others [(2017)16 SCC 680]. Accordingly, the total amount payable

as compensation is fixed as under:

S.No.	Head	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed/ enhanced/ granted
1	Loss of dependency	13,20,000	22,68,000	Enhanced
2	Parental consortium (claimants 1 & 2)	20,000	80,000	Enhanced
3	Loss of Love and Affection (claimants 3 & 4)	----	80,000	Granted
4	Loss of Estate and Funeral Expenses	5,000	30,000	Enhanced
	Total	13,45,000	24,58,000	Enhanced by Rs.11,13,000

12. In view of the discussions made herein, this Civil Miscellaneous Appeal is allowed by enhancing the compensation payable to the claimants from Rs.13,45,000/- to Rs.24,58,000/-. Out of the above said enhanced amount, the 1st claimant/mother of the deceased is entitled to Rs.10,00,000/- and the 2nd claimant/father of the deceased is entitled to Rs.8,58,000/-, the claimants 3 and 4/sister and brother of the deceased are entitled to Rs.3,00,000/- each.



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13. In view of the order passed by this Court in C.M.P.No.4905 of 2022,

claimants are not entitled to claim interest for the delay period *i.e.*, 3217 days.

The 2nd respondent is directed to deposit the enhanced award amount, to the credit of MCOP.No.1633 of 2010 on the file of the Motor Accident Claims Tribunal (I Additional District Judge), Cuddalore along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellants/claimants are permitted to withdraw the same, less the amount if any, already withdrawn by filing a formal application before the Tribunal. The appellants are directed to pay the additional court fee for the enhanced award amount. No costs.

08.04.2025

Index : Yes / No
Neutral Citation : Yes/No
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To
1.The I Additional District Judge
(Motor Accidents Claims Tribunal)
Cuddalore

2.The Section Officer
V.R. Section
Madras High Court



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S. SOUNTHAR., J.

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