



C.M.A.No.804 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2025

CORAM

THE HON'BLE Mr. JUSTICE R. SURESH KUMAR
AND
THE HON'BLE Dr. JUSTICE A.D.MARIA CLETE

C.M.A.No.804 of 2025
AND
C.M.P.No.6337 of 2025

The Manager
Reliance Gen. Ins. Co. Ltd.
3rd Floor, 29, North Usman Road
T.Nagar, Chennai 600 017

.. Appellant

Vs.

1.Praveena
2.Mahendiran
3.Bujjiammal
4.S.Murugesan

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.09.2019 passed in M.C.O.P.No.322 of 2015 on the file of the Motor Accident Claims Tribunal-I (Special District Court), Tiruvallur.

For Appellant : Mrs.C.Bhuvanasundari

For RR1 to 3 : Mr.V.P.Dillibabu

4th Respondent : *Ex parte*



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JUDGMENT

(Delivered by R. SURESH KUMAR, J.)

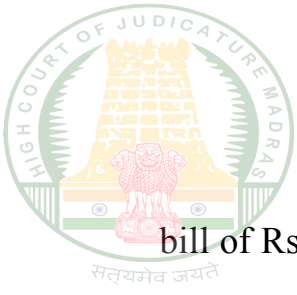
This Civil Miscellaneous Appeal has been directed against the award dated 10.09.2019 passed by the Motor Accident Claims Tribunal-I (Special District Court), Tiruvallur, in M.C.O.P. No.322 of 2015.

2. Due to the motor vehicle accident that took place on 09.01.2015, one M.Govindaraj died, while he was riding Honda Activa scooter which was hit by a tipper lorry bearing registration No.TN 48 E 5663.

3. The widow and the parents of the deceased being claimants filed M.C.O.P.No.322 of 2015, seeking compensation for a sum of Rs.1crore.

4. The Tribunal, having gone into the evidence adduced before it, ultimately found that the tipper lorry was responsible for the accident. Therefore, the insurer of the tipper lorry has to pay the compensation.

5. Insofar as the quantum of compensation is concerned, since the deceased was a software engineer working in a private concern and his salary



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bill of Rs.39,150/- was produced, based on which, the Tribunal fixed the loss of earning, after adding 50% as future prospects to the extent of Rs.52,852/- and after deducting one-third as personal expenses at Rs.35,235/-, where multiplier 17 was employed, the total loss of earning and future prospects would be Rs.71,87,940/-.

6. Along with the said compensation, the Tribunal has awarded Rs.40,000/- for loss of consortium, Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.1,00,000/- for love and affection. Therefore, the total compensation of Rs.73,57,940/- was awarded by the Tribunal.

7. Challenging the quantum of the award, the appellant/insurance company has preferred this appeal.

8. Heard Mrs.C.Bhuvanasundari, learned counsel appearing for the appellant/insurance company and Mr.V.P.Dillibabu, learned counsel appearing for the respondents 1 to 3/claimants and have gone through the order passed by the Tribunal, which is impugned herein.



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9. The learned counsel for the appellant/insurance company pointed out that insofar as future prospects is concerned, since the deceased was working in a private concern, 40% of earning alone ought to have been taken as future prospects, whereas, the Tribunal has taken 50% as if he was working in a Government department. Therefore, it is an erroneous calculation. That apart, the learned counsel had pointed out that under the head “loss of love and affection”, compensation of Rs.1,00,000/- was awarded to the parents of the deceased, which must be the maximum of Rs.40,000/- to each of the claimants *i.e.*, Rs.80,000/-. Apart from these heads, there could be no serious objection from the appellant side.

10. We have heard Mr.V.P.Dillibabu, learned counsel appearing for the respondents/claimants, who submitted that the deceased is the only son to his parents, who died at a young age and since the main earning member of the family was lost, the calculation made by the Tribunal in awarding compensation of Rs.73,57,940/- is a justifiable one and therefore, even on the question of quantum, the award passed by the Tribunal need not be interfered with, he contended.



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11. The appeal itself has been filed by the appellant/insurance company questioning the quantum of compensation awarded only under the two heads viz., future prospects and loss of love and affection. The objection raised by the learned counsel for the appellant/insurance company insofar as future prospects at 50%, we feel that it has to be fixed only at 40% as per the settled proposition and therefore, we take the future prospects only at 40%, which is to be added with the monthly salary earned by the deceased based on his salary bill.

12. Even under the head of loss of love and affection, the claimants viz., parents of the deceased would be entitled to Rs.40,000/- each and hence, a total sum of Rs.80,000/- could have been awarded, instead of Rs.1,00,000/-. Considering the monthly earning of the deceased as Rs.39,150/-, after deducting 10% for income tax, it comes to Rs.35,235/- and if 40% future prospects is added, it would come to Rs.49,329/- (Rs.35,235 + Rs.14,094/-), out of which, one-third is to be deducted for personal expenses, i.e., Rs.16,443/-, the remaining amount is Rs.32,886/-. For the yearly loss, if it is multiplied by 12 months, it comes Rs.3,94,632/- (Rs.32,886/- x 12 months). If the multiplier 17 is followed, the total amount would be Rs.67,08,744/- (Rs.3,94,632/- x 17 multiplier). Therefore, the total loss of earning can be fixed at Rs.67,08,744/-.



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13. In respect of the compensation awarded by the Tribunal under other heads, we do not want to interfere with the same. Therefore, the modified award amount would be Rs.68,58,744/-, the break up of which is set out below:

<i>S.No.</i>	<i>Head</i>	<i>Amount now awarded (Rs.)</i>
1	Loss of income	67,08,744
2	Loss of consortium for 1 st claimant	40,000
3	Loss of love and affection for claimants 2 & 3	80,000
4	Loss of estate	15,000
5	Funeral expenses	15,000
	Total	68,58,744

14. The appellant/insurance company shall deposit the modified award i.e., Rs.68,58,744/- to the credit of M.C.O.P.No.322 of 2015 on the file of the Motor Accident Claims Tribunal-I (Special District Court), Tiruvallur, if not already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, it is open to the respondents 1 to 3/claimants to withdraw the same as per the apportionment ordered by the Tribunal. Insofar as the order passed by the Tribunal of pay and recovery because of the fitness certificate not available at the time of accident of the tipper lorry, we also confirming the direction given by the Tribunal, thereby, the order of pay and recovery is to be sustained.



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WEB COPY With these modifications, this Civil Miscellaneous Appeal is partly allowed. No costs. Connected C.M.P. is closed.

[R.S.K.,J.] [A.D.M.C., J.]
26.03.2025

Index : Yes / No
Neutral Citation : Yes/No
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To
The Special District Judge
Motor Accident Claims Tribunal-I
(Special District Court), Tiruvallur



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