



CMA No.1950 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1950 of 2025

1. N. Rajendran
2. N. Balan
3. V. Ramani
4. N. Ayyappan

... Appellants

Vs.

1. M. Raghu

2. The Manager,
United India Insurance Co. Ltd.,
Motor T.P.Claim Office,
Siling Building, No.134.
Grems Road, Chennai – 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the contributory negligence and enhance the award from Rs.5,91,600/- to Rs.20,00,000/- in M.C.O.P.No.7433 of 2018 on the file of Motor Accident Claims Tribunal VII Small causes Court, Chennai.

For Appellants : Mr.T. Saleem Fathima
For Respondent-2 : Mr.D. Bhaskaran



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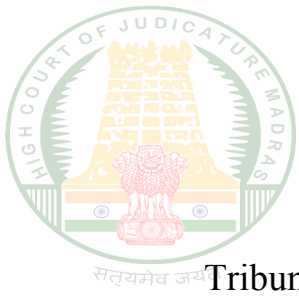
JUDGMENT

The appellants have filed this appeal to set aside the contributory negligence and enhance the award from Rs.5,91,600/- to Rs.20,00,000/- in M.C.O.P.No.7433 of 2018 on the file of Motor Accident Claims Tribunal VII Small causes Court, Chennai.

2. The brief facts of the case of the appellants/claimants are as follows:

On 29.06.2018 at about 6.00 hrs while the deceased was travelling in a Gods Auto bearing Reg.No.TN-19-AZ-1897 the first respondent motor cycle bearing Regn.No.Tn-12-B-3913 proceeding in the same direction driven by its rider in a rash and negligent manner dashed behind a auto and thereby the deceased was thrown out of auto, and thereby he sustained severe head injuries and admitted in Rahiv Gandhi Govt Hospital and thereby he succumbed to the injuries. Hence the legal heirs of the deceased has filed the claim petition in M.C.O.P.No .7433 of 2018 before the Motor Accident Claims Tribunal III Judge, Small Causes Court, Chennai.

3. Upon considering the oral and documentary evidence, the



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Tribunal partly allowed the claim petition and awarded a sum of Rs.5,91,600/- as compensation. The second respondent was directed to pay the said amount to the appellants, along with interest at the rate of 7.5% per annum from the date of petition till the date of realization, excluding the default period, if any. The Tribunal has deducted 30% as contributory negligence from the compensation amount. Challenging the same the petitioner has filed the present appeal.

4. Heard Mr.T. Saleem Fathima and Mr.D. Bhaskaran learned counsel appearing for the second respondent.

5. The learned counsel for the appellant contended that the accident has occurred only due to the rash and negligent driving of the first respondent motor cyclist. Hence, deducting 30% towards contributory negligence by the Tribunal needs interference by this Court. Hence, the learned counsel prayed for enhancement of the compensation.

6. On the other hand, the learned counsel appearing for the



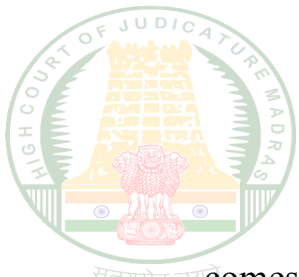
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respondent submitted that the award passed by the Tribunal was based on well-settled legal principles applicable at the time and does not warrant any interference.

7. On going through the facts of the case it is seen that the deceased was only travelling in the goods vehicle is only traffic violation and that itself will not create negligence on the part of the deceased. That apart the deceased is aged about 65 years. Hence 30% fixed as contributory negligence negligence on the part of the deceased is set aside and the modified amount is as follows:

<i>Sl. No</i>	<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by the High Court (Rs.)</i>
1	Loss of dependency	6,30,000/-	6,30,000/-
2	Loss of Consortium	1,60,000/-	1,60,000/-
3	Medical Expenses	22,100/-	22,100/-
4	Loss of Estate	16,500/-	16,500/-
5	Funeral Expenses	16,500/-	16,500/-
	Total	Rs.8,45,100/-	8,45,100/-
	30% deducted towards contributory negligence and 70% of the compensation	5,91,570/- rounded off to 5,91,600/-	
	Amount awarded by this Court		8,45,100/-

Thus, the total compensation after removing the contributory negligence



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comes to Rs.8,45,100/- , which shall carry interest at the rate of 7.5% per annum.

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8. In the result:

i. The Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.

ii. The compensation awarded by the Tribunal after setting aside the contributory negligence comes to Rs.8,45,100/-

iii. The appellant/claimant is directed to pay the court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after receipt of the court fee.

iv. The second respondent, United India Insurance Co. Ltd., is directed to deposit the enhanced compensation amount of Rs.8,45,100/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P.No .7433 of 2018 before the Motor Accident Claims Tribunal III Judge, Small Causes Court, Chennai. , within a period of eight weeks from the date of receipt or uploading of a copy of this order.



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v. On such deposit being made by the second respondent, the appellant/claimant is at liberty to withdraw the same, as per the apportionment made by the Tribunal, after following due process of law.

vi. The appellant/claimant shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

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Index:Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no
smn

To

1. The VII Small causes Court, Chennai.

2.The Manager,
United India Insurance Co. Ltd.,

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Motor T.P.Claim Office,
Siling Building, No.134.
Greens Road, Chennai – 600 006.

3. The Section Officer, V.R. Section, High Court of Madras.

T.V.THAMILSELVI, J.

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