



CMA.No.501 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :21.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.501 of 2025

1.Revathi
2.Minor Brintha Sri
3. Chinnappan
4.Lakshmi Chithi

... Appellants

Vs.

1.Navaladi
2.The Branch Manager
United India Insurance Co., Limited
Namakkal District, Tamil Nadu

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to enhance the Compensation amount made in Order dated 05.12.2022 made in MCOP No. 201 of 2021 on the file of the MACT Tribunal, Special District Court, Krishnagiri.

For Appellants : Mr.S.P.Yuaraj

For respondents : Mr.J.Chandran for R2

R1-notice dispensed with



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JUDGMENT

The claimants are the appellants. It is the case of the claimants that the husband of the first claimant, the father of the second claimant and the son of the claimants 3 and 4, namely Thimmarayan, died in a road accident that had taken place on 06.12.2019. According to the claimants, the deceased was proceeding in his two-wheeler along with his friend as a pillion rider. The Taras lorry bearing registration number TN-88-D-1946, belongs to the first respondent, came in a rash and negligent manner and dashed against the two-wheeler in which the deceased was travelling. The lorry is insured with the second respondent. As a result of the accident, the deceased suffered fatal injuries and died on the spot. The claimants filed the claim petition seeking compensation of Rs.50 lakhs. The Tribunal, based on the evidence available on record, awarded a compensation of Rs.23,53,142/-. Not satisfied with the quantum of compensation, the claimants have come before this court.



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

Hence, notice to him is dispensed with.

3. Heard the arguments of the learned counsel for the appellants/claimants and the learned counsel for the second respondent/ Insurance company. Both the learned counsel for the appellants as well as the second respondent have not made any arguments on the questions of negligence as well as liability. Hence, the facts necessary for deciding those questions are not discussed in this appeal. The appeal is confined only on the question of quantum.

4. The learned counsel for appellants/claimants submitted that as per Exhibits P-8 and P-12, salary certificates produced by the claimants, the victim received a salary of Rs.17,533/- for the month of October 2019 just two months prior to the accident. However, without taking into consideration the said fact, the Tribunal fixed monthly income only at Rs.10,010/-. The learned counsel seeks enhancement of the income fixed by the Tribunal.

5. The learned counsel for the Second Respondent/Insurance Company submitted that as per salary slip produced by the claimants



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In the salary slip, it is also clearly mentioned that the deceased was a daily wage labourer and hence, the Tribunal was justified in fixing the monthly income at Rs. 10,010/-.

6. In the claim petition, it was stated by the claimants that the deceased was employed as a Mixer Operator in a company called KEF, Gurubarapalli and earning a sum of Rs.25,000/-per month. In order to substantiate the income of the deceased, the claimants produced salary bills for the months of September, October, November and December 2019 under Exhibits P-8 and P-12. A perusal of the certified copy of the salary slips produced by the claimants would indicate that his salary was calculated on the basis of the days he worked in particular month. The legal manager of the employer of the deceased was examined as PW-3. He clearly admitted in his evidence that salary would be paid to the deceased for the days he worked and the salary would not be paid to him for the days in which he had not reported to duty. A further perusal of the salary slips would indicate that in the month of September 2019, the deceased worked only for 24 days and he received



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a salary of Rs. 14,733/-. For the month of October 2019, he worked only for 24 days and received a salary of Rs. 17,533/-. For the month of November 2019, he worked only for 15 days and received a salary of Rs. 11,463/-. Therefore, it is clear that the deceased will not get salary for the entire 30 days in a given month and his income is a fluctuating one based on the number of days of work. Taking into consideration all these factors, this Court is inclined to fix Rs.15,000/- as monthly income of the deceased based on the exhibits produced by him. In that case, the claimants are entitled to Rs.32,13,000/- towards loss of dependency.

$$15,000 \times 1.4 \times 12 \times 17 \div 4 = \text{Rs. } 32,13,000/-$$

7. The Tribunal fixed the age of the deceased at 28 years based on Exhibit P2, Post-Mortem Certificate. Therefore, 40% enhancement towards future prospects shall be added to his income. The applicable multiplier would be 17. The amount awarded by the tribunal under various other heads like loss of estate, funeral expenses are reduced to Rs.15,000/- each. The amount awarded under the head loss of consortium to claimants 1 to 4 are reduced to Rs.40,000/- each. As per



the law laid down in ***Pranay Sethi*** case, 10% enhancement can be given only if accident occurs after three years. In the case on hand, the accident had taken place within three years from the date of judgment in ***Pranay Sethi*** case.

8. In view of the same, the award passed by the tribunal is modified as follows:-

Sl • No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	21,44,142/-	32,13,000/-	Enhanced
2.	Loss of Estate	16,500/-	15,000/-	Reduced
3.	Funeral Expenses	16,500/-	15,000/-	Reduced
4.	Loss of Consortium (Claimants 1 to 4)	1,76,000/-	1,60,000/-	Reduced
	Total	23,53,142/-	34,03,000/-	Enhanced by Rs.10,49,858/-



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9. With the above modifications, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.23,53,142/- is hereby enhanced to Rs.34,03,000/-. In view of the order passed in CMP.No.2306 of 2025, the appellants/claimants are not entitled to claim any interest for the delay period of 617 days. The appellants are entitled to interest at the rate of 7.5% per annum excluding the delay period (617 days) from the date of filing of the claim petition till the date of realization. The second respondent /Insurance company is directed to deposit the enhanced award amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of copy of this Judgment.

10. As far as apportionment is concerned, the minor 2nd claimant/daughter of the deceased is entitled to Rs.7,50,000/- The mother of the deceased/4th claimant is entitled to Rs.3,00,000/-. The father of the deceased/3rd claimant is entitled to Rs.1,50,000/-. The remaining amount of Rs.22,03,000/- is granted in favour of first claimant, the wife of the deceased.



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11. The 2nd appellant/ 2nd claimant being minor, her share of award amount is directed to be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which would be renewed periodically until she attains majority and the 1st appellant/1st claimant, being the Natural Guardian of the minor 2nd claimant, is permitted to withdraw the interest accrued thereon **once in three months** and the same shall be used for the welfare of the minor 2nd claimant. The claimants 1, 3 and 4 are entitled to withdraw their share of compensation amount, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The appellants are directed to pay the additional court fee proportionate to the amount awarded in this appeal. No costs.

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Index: Yes/No
Internet: Yes/No
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To

1. Motor Accident Claims Tribunal,
Special District Court, Krishnagiri.
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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