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CMA.No.841 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 24.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.841 of 2025

1. Mangammal
2. Sakthivel
3. Prasanth

... Appellants

Vs.

- 1.M/s A.Periyathambi Chettiyar Company,
Rep. by its Partner, No.381, Bangalore Road,
Krishnagiri Town and District.

2. The Branch Manager,
The New India Assurance Company Limited,
Branch office, No.39-C, Bye Pass Road,
Dharmapuri 636 701.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation amount made in MCOP No.7 of 2021 dated 25.07.2024 on the file of the Subordinate Judge, Motor Accident Claims Tribunal, Uthangarai.

For appellants : Mr.S.P.Yuaraj

For Respondents : Ms.R.Rathna Thara for Second respondent



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JUDGMENT

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Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come before this court by filing the present appeal.

2. It is not in dispute that the son of the claimants 1 and 2 and brother of the third claimant namely Sathishkumar, died in a road accident that had occurred on 18.11.2020. It is the case of the claimants that the deceased was driving his Honda Activa scooter by following traffic rules along with a pillion rider in Samalpatti Uthangarai Road and when he was proceeding near Veeriyampatti Koot road, a Ashok Leyland Goods vehicle belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the two wheeler of the deceased. As a result of accident, he sustained severe injuries and died in the hospital. Hence, the claimants preferred a claim petition seeking compensation of Rs.50,00,000/-.



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3. The first respondent, owner of the vehicle remained exparte before the Tribunal and the claim petition was contested by the second respondent/ insurance company, denying the manner of accident as narrated in the claim petition. The Insurance company claimed that the the accident had occurred only due to the negligence on the part 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 goods vehicle, insured with the second respondent and quantified the compensation payable to the claimants at Rs.19,69,400-. Not satisfied with the quantum of compensation, the claimants have filed the present appeal.

5. Both the counsel for the appellants and the second respondent have not advanced any arguments on the questions of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.



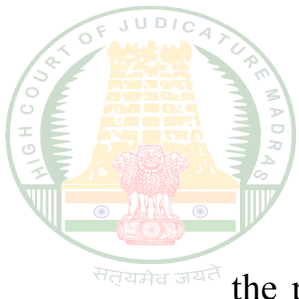
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6. The learned counsel for the appellants submits that the accident had occurred in the year 2020 , however, the Tribunal fixed the notional income at Rs.12,000/-, which is very much on lower side and hence, it requires enhancement.

7. The learned counsel for the second respondent/ insurance company would submit that the claimants have not produced any documentary evidence to prove the avocation and income of the deceased and hence, Tribunal was justified in fixing notional income of the deceased at Rs.12,000/- per month.

8. In the claim petition, it was stated by the claimants that the deceased was self employed and was earning a sum of Rs.25,000/- per month. When the mother of the deceased was examined as PW1, she deposed that at the time of accident, the deceased was running a bakery and earned handful of salary. However, the claimants have not produced any documentary evidence to prove the avocation and income of the deceased. Even there is no proof income, this court can fix notional income taking into consideration the year of accident and



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the prevailing cost of living. Accordingly, this court proceeds to fix notional income of the deceased at Rs.16,500/- per month. At the time of accident, the deceased was aged about 21 years, as per the Postmortem certificate Ex.P8. Therefore, the claimants are entitled to 40% enhancement towards Future Prospects and the proper multiplier to be adopted is 18. The deceased was a bachelor at the time of accident and hence, half of the amount shall be deducted towards personal expenses of the deceased. Accordingly, the claimants are entitled to a sum of Rs.24,94,800/- $(16,500 \times 1.40 \times 12 \times 18 \times 1/2)$ towards loss of dependency.

9. The compensation awarded by the Tribunal under the heads loss of Estate, Funeral expenses, and loss of consortium are in accordance with the law settled by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157*** and hence, the same are confirmed. However, the compensation of Rs.5,000/- awarded under the head transportation expenses is set aside, as it was covered under the compensation awarded towards loss of estate.



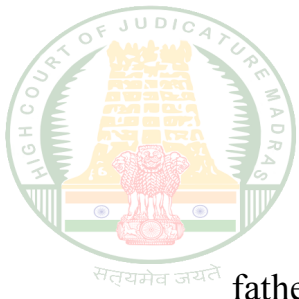
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10. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	18,14,400	24,94,800	enhanced
2.	Loss of consortium	1,20,000	1,20,000	confirmed
3.	Loss of estate	15,000	15,000	confirmed
4.	Funeral expenses	15,000	15,000	confirmed
5.	Transportation charges	5,000	--	set aside
	Total	19,69,400	26,44,800	enhanced by 6,75,400

11. With the above modifications, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.19,69,400/- is hereby enhanced to **Rs.26,44,800/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit. The claimants are directed to pay the applicable court fees on the enhanced compensation amount now determined by this court.

12. From the above compensation now determined, the first claimant/mother is entitled to Rs.14,00,000/-, the second claimant/



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father is entitled to Rs.8,00,000/- and the third claimant/brother is entitled to Rs.4,44,800/-.

13. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **four weeks** from the date of receipt of a copy of this judgment. On such deposit being made, the claimants shall be permitted to withdraw their respective compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal. There shall be no order as to costs.

24.03.2025

Index : Yes/No
Speaking order : Yes/No
Neutral citation : Yes/No
mst

To

1. The Subordinate Judge,
Motor Accident Claims Tribunal, Uthangarai.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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