



C.M.A.No.466 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 19.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.466 of 2025

1.Radha

2.Pradeep.M.T.

3.Minor Prasandh.M.T

4.Minor Aswathy.M.T

... Appellants

(The Minor Appellants 3 and 4 are represented by their Mother and Next Friend and Guardian Radha the 1st Appellant)

VS.

1.Anandan.A

2.ICICI Lombard General Insurance Co.Ltd.,

1st Floor, No.84 and 85, Arihant Plaza,

Waltax Road, Parrys Corner, Chennai-600003.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 21.03.2024 in M.C.O.P.No.1303 of 2017 on the file of the Special Sub Judge No.1, MCOP Tribunal, Small Causes Court, Chennai and to enhance the award amount.



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For Appellants : Ms.D.Jeevitha
for M/s.R.Nalliyappan

For R2 : Mr.J.Michael Visuvasam
for M/s.R.V.Sivaraj

For R1 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the claimants have come before this Court seeking enhancement of compensation.

2. The husband of the 1st claimant and father of the claimants 2, 3 and 4 namely M.N.Thankan (a) Kunjunni died in a road accident that had taken place on 28.08.2016. The claimants preferred a claim petition seeking compensation of Rs.87,00,000/-.



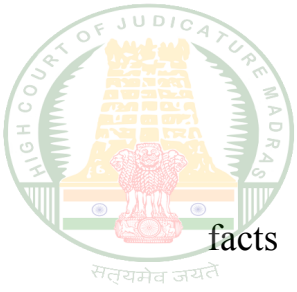
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3. Before the Tribunal, the 2nd appellant/2nd claimant was examined as PW.1 and one eye-witness to the occurrence namely Sampathkumar was examined as PW.2. On the side of the appellants/claimants, 18 documents were marked as Exs.P1 to P18. On the side of the 2nd respondent-Insurance Company, one Prabu, who was a legal officer of the said Insurance Company was examined as RW.1 and 3 documents were marked as Exs.R1 to R3.

4. Based on the evidence available on record, the Tribunal awarded a sum of Rs.12,84,000/- as compensation in favour of the claimants. Not satisfied with the quantum of compensation awarded by the Tribunal, the appellants/claimants have come by way of this appeal.

5. The 1st respondent remained *exparte* before the Tribunal. Therefore, notice to the 1st respondent is dispensed with.

6. Both the learned counsel appearing for the appellants as well as learned counsel appearing for the 2nd respondent have not advanced any arguments on the question of negligence and liability aspects. Therefore,



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facts necessary for deciding those questions are not discussed in this judgment. Both the learned counsel appearing for the appellants and 2nd respondent advanced argument only on the question of quantum of compensation.

7. Heard the learned counsel appearing for the appellants as well as learned counsel appearing for the 2nd respondent.

8. The learned counsel appearing for the appellants/claimants would submit that accident had occurred in the year 2016, however, the Tribunal, fixed the notional income only at Rs.10,000/- per month and the same is very much on lower side.

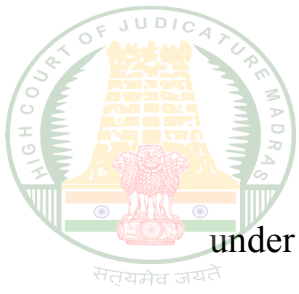
9. The learned counsel appearing for the 2nd respondent/insurance company would submit that claimants have not produced any document to prove the income of the deceased. Hence, the amount of Rs.10,000/- per month fixed by the Tribunal is justifiable and reasonable.



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10. It is the case of the claimants that deceased was employed as Maysthi and he was earning Rs.20,000/- per month. However, in order to prove the monthly income of the deceased, the claimants have not produced any documentary evidence. Therefore, the Tribunal fixed the notional income at Rs.10,000/- per month. The accident had occurred on 28.08.2016, having regard to the date of accident and the cost of living, it would be appropriate to fix the notional income of the deceased at Rs.15,000/- per month. Based on the Ex.P8-Aadhar Card, the Tribunal fixed the age of the deceased as 51 years at the time accident. Therefore, the claimants are entitled to 10% future prospects. The applicable multiplier would be '11'. Since there are four dependents, 1/4 of the amount has to be deducted towards personal expenses as per the law laid down by the Apex Court in ***Sarla Verma and others vs. DTC and others*** reported in **(2009) 6 SCC 121**. Accordingly, the claimants are entitled to Rs.16,33,500/- under the head loss of dependency ($\text{Rs.15,000} \times 1.1 \times 12 \times 11 \times 3/4 = 16,33,500/-$).

11. Both the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent have not advanced any argument with regard to the quantum of compensation fixed by the Tribunal



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under the head of loss of consortium, loss of estate, funeral expenses and transport charges. Hence, the award passed under the said heads are confirmed. Therefore, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Loss of Dependency	Rs.10,89,000/-	Rs.16,33,500/-
2.	Loss of Consortium	Rs.1,60,000/-	Rs.1,60,000/-
3.	Loss of Estate	Rs.15,000/-	Rs.15,000/-
4.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
5.	Transport Charges	Rs.5,000/-	Rs.5,000/-
	Total	Rs.12,84,000/-	Rs.18,28,500/-

12. Therefore, the amount of Rs.12,84,000/- awarded by the Tribunal is enhanced to Rs.18,28,500/-. The Tribunal taking into consideration of 5 persons travelled in a auto having seating capacity of 4, directed the 2nd respondent-Insurance Company to pay compensation to the petitioners at the first instance with a liberty to recover the same from the 1st respondent-insured. The said finding is confirmed.



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13. In view of the discussion made earlier, the 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.18,28,500/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.1303 of 2017 on the file of the Motor Accident Claims Tribunal, (Special Sub Court No.1), Small Causes Court, Chennai, within a period of four weeks from the date of receipt of copy of this judgment.

14. The Tribunal fixed the share of the 1st claimant as Rs.5,34,000/- and the same is enhanced to Rs.7,78,500/-. Like wise the share of claimants 2 to 4 is enhanced from Rs.2,50,000/- each to Rs.3,50,000/- each.

15. The appellants 1 and 2/claimants 1 and 2 shall be permitted to withdraw their proportionate share from the total compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.



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16. The appellants 3 and 4/claimants 3 and 4 being minors, their respective shares are directed to be invested in anyone of the Nationalized Banks under a Fixed Deposit Scheme for a period of three years which shall be renewed periodically until they attain majority and the 1st appellant/1st claimant, being the Natural Guardian of the minor claimants 3 and 4, is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account once in three months and the same should be used for the welfare of the minor appellants 3 and 4/claimants 3 and 4.

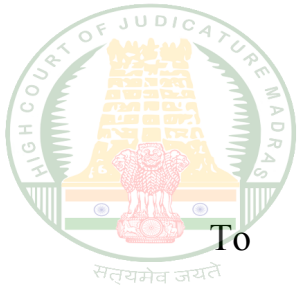
17. It is made clear that the claimants are not entitled to any interest for the delay period (440 days) as per the order passed in C.M.P.No.2452 of 2025, dated 07.02.2025.

18. Accordingly, the Civil Miscellaneous Petition is partly allowed.

No costs.

19.02.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
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To

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- 1.The Special Sub Judge No.1, MCOP Tribunal,
Small Causes Court, Chennai.
- 2.ICICI Lombard General Insurance Co.Ltd.,
1st Floor, No.84 and 85, Arihant Plaza,
Waltax Road, Parrys Corner, Chennai-600003.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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