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CMA No.391 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.391 of 2025

1. Geetha

2. Minor Chithreshwari (13 years)

rep. by next friend guardian mother Geetha

...Appellants

vs.

1.Sudappa

2. The Oriental Insurance Company Limited,
rep. by its Divisional Manager,
Divisional Office, 2nd floor, Vijay shopping Complex,
2/7 -16, Bangalore Main Road,
Zuzuwadi Hosur, Krishnagiri District.

Varalakshmi (died), w/o late Venkatesappa

... Respondents

Prayer: The Civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to enhance the compensation amount made in MCOP No.63 of 2019, dated 24.08.2023 on the file of the Additional District Judge, Motor Accident Claims Tribunal, Hosur.

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mr.J.Chandran for second respondent



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JUDGMENT

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 husband of the first claimant and father of the second claimant, namely Narayanasamy died in a road accident that had taken place on 16.06.2018. It is the case of the claimants that the deceased was a barber by profession and he was earning a sum of Rs.30,000/- at the time of his death. It is stated in the claim petition that the deceased was waiting for bus in a bus stop at Hosur Ameeria Petrol bunk and a mini bus owned by the first respondent and insured with the second respondent came and stopped at the said bus stop. When the deceased was getting into the bus, the driver of the bus, without noticing whether all the passengers got into the bus, had driven the vehicle in a rash and negligent manner and hence, the deceased, who was in the process of getting into the bus, fell down and received head injury. As a result of accident, he died. The claimants filed a claim petition before the Tribunal seeking



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compensation of Rs.30,00,000/- and the Tribunal awarded a sum of Rs.9,07,000/- as compensation. Not satisfied with the same, the appellants have come before this court.

3. The learned counsel for the appellants and the insurance company 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.

4. The learned counsel for the appellant would submit that the accident had occurred in the year 2018, however, the Tribunal fixed very meager amount of Rs.10,000/- as notional income and the same requires enhancement. He further submits that as per Ex.R3 Aadhaar card of the deceased, at the time of accident, the deceased was aged 55 years 8 months and 25 days only and hence, he will come under the category of 51-55 years. The Tribunal without taking into the above aspect, had erroneously fixed the age of the deceased as 57 years and applied multiplier 9.



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5. The learned counsel for the second respondent/ insurance company would submit that the claimants have failed to produce any document to prove the income of the deceased and hence, the Tribunal was justified in fixing notional income at Rs.10,000/- per month.

6. It is seen from the averments contained in the claim petition that the deceased was running a barber shop and he was earning a sum of Rs.30,000/- per month. However, to prove the avocation and income of the deceased, the claimants have not produced any satisfactory materials before the Tribunal. If there is no proof of income, the Tribunal can fix notional income, taking into consideration the year of accident. In the case on hand, the accident had taken place on 16.06.2018. Therefore, considering the prevailing cost of living and the year of accident, this court feels that it would be appropriate to fix notional income at Rs.16,500/-.

7. As per Ex.R3 Aadhaar Card of the deceased, his date of birth was 21.09.1962. The accident had taken place on 16.06.2018. Therefore, it is clear that on the date of accident, the deceased was aged



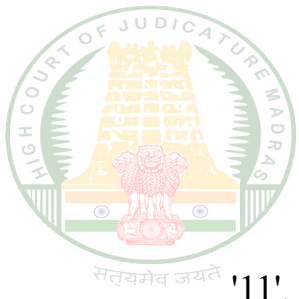
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55 years, 8 months and 25 days. The learned counsel for the appellants relied on a decision of the Hon'ble Supreme Court in ***Shashikala and others Vs. Gangalakshamma and another reported in (2015) 9 Supreme Court Cases 150***, wherein, it is held that for the purpose of fixing multiplier, only the completed age of the deceased shall be taken into consideration. The relevant observation reads as follows.

" 16. In so far as appropriate multiplier, the date of birth of the deceased as per driving licence was 16.06.1961. On the date of accident i.e. 14.12.2006, the deceased was aged 45 years 5 months and 28 days and the Tribunal has taken the age as 46 years. Since the deceased has completed only 45 years, the High Court has rightly taken the age of the deceased as 45 years and adopted multiplier of 14, which is the appropriate multiplier and the same is maintained. Total loss of dependency is calculated at Rs.16,82,310/- (Rs.1,20,165 x 14)."

8. In the case on hand the deceased had completed only 55 years at the time of accident. Therefore, applying the ratio laid down in the above mentioned case, proper multiplier to be adopted in this case is



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'11'. Further, as per the decision of the Apex Court in **Pranay Sethi Case**, 10% enhancement should be given towards future prospects. At the time of death of deceased, there were three persons depending on the income of the deceased and hence 1/3 should be deducted towards the personal expenses of the deceased. Accordingly, a sum of Rs.15,97,200/- ($16,500 \times 1.1 \times 12 \times 11 \times 2/3$) is granted towards loss of dependency.

9. Further, the first claimant is entitled to a sum of Rs.40,000/- towards consortium and the second claimant is entitled to a sum of Rs.40,000/- towards love and affection.

10. The compensation awarded by the Tribunal under other heads viz., Transportation charges, funeral expenses, loss of estate are confirmed.

11. In view of the discussions made earlier, the compensation awarded by the Tribunal is revised as under:



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	7,92,000	15,97,200	enhanced
2.	consortium to first claimant and love and affection to 2nd claimant	80,000	80,000	confirmed
3.	Transportation	5,000	5,000	confirmed
4.	Loss of Estate	15,000	15,000	confirmed
5	Funeral expenses	15,000	15,000	confirmed
	Total	9,07,000	17,12,200	enhanced by 8,05,200

12. With the above modifications, this **Civil Miscellaneous Appeal is allowed** and the compensation awarded by the Tribunal at Rs.9,07,000/- is hereby enhanced to **Rs.17,12,200/-** together with interest at 7.5% per annum (excluding the delay period of 248 days, as per order in CMP No.2025/2025) from the date of petition till the date of deposit. The claimants are directed to pay applicable court fee on the above mentioned enhanced compensation.



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13. From the above compensation now determined by this court, the first claimant/wife is entitled to Rs.11,12,200/- and the second claimant is entitled to Rs.6,00,000/-

14. 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 **six weeks** from the date of receipt of a copy of this judgment. On such deposit, the first claimant shall be permitted to withdraw her respective compensation along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

15. The second claimant being minor, her respective share is 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 she attains majority and the 1st appellant/first claimant, being the Natural Guardian of the minor



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second claimant, is permitted to withdraw the interest accrued thereon **once in three months** and the same should be used for the welfare of the minor second claimant.

There shall be no order as to costs.

28.02.2025

Index: **Yes**
Internet: **Yes**
mst

To

1. The Additional District Judge,
Motor Accident Claims Tribunal,
Hosur
2. The Section Officer,
V.R.Section, Madras High Court,
Chennai-104.



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S.SOUNTHAR, J.

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