



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 05.03.2025**

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**CORAM**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**C.M.A.No.459 of 2025**

1.Rajamani

2.Govindaraj

3.Narayanan

4.Thirupathi

5.Anumanthan

... Appellants

VS.

1.Vanitha

2.The Branch Manager, The Oriental Insurance Co.Ltd.,  
Branch office, G.K.Complex, 1<sup>st</sup> Floor,  
Dharmapuri Main Road,  
Pochampalli, Krishnagiri District.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to enhance the compensation amount made in order dated 18.04.2023 made in M.C.O.P.No.1230 of 2020 on the file of the



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Special District Court for Motor Accident Claims Cases, Krishnagiri by  
allowing this Civil Miscellaneous Appeal.

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For Appellants : Mr.S.P.Yuaraj

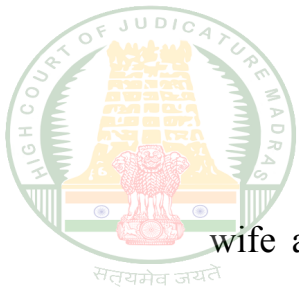
For R2 : Mr.J.Chandran

For R1 : Notice Dispensed With

### **J U D G M E N T**

Not satisfied with the quantum of compensation awarded by the Special District Court for Motor Accident Claims Cases, Krishnagiri in M.C.O.P.No.1230 of 2020, dated 18.04.2023, the claimants have come before this Court.

2. It is not in dispute that the husband of the 1<sup>st</sup> claimant, father of the claimants 2 to 5 namely Jayaraman suffered injury and died in a road accident that had occurred on 15.07.2018. It was averred by the claimants that deceased was proceeding in his TVS XL Super Moped along with his



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wife as a pillion rider towards Kurumbatti Mottur to attend the religious function at his relative's house. Though the deceased was driving his two wheeler on the extreme left side of the road, the Tavera Car belonging to the 1<sup>st</sup> respondent insured with the 2<sup>nd</sup> respondent came in a rash and negligent manner and dashed against the two wheeler of the deceased. As a result of which, the deceased sustained grievous injuries and he was taken to Government Head Quarters Hospital, Krishnagiri for treatment. Thereafter, he was admitted in Ganga Medical Centre and Hospitals Private Limited, Coimbatore and he had been treated as inpatient from 19.07.2018 to 31.07.2018. Again, the deceased was admitted at St.Johns Medical College Hospital and treated there from 22.01.2019 to 04.02.2019. Again, he was admitted in Coimbatore Hospital as inpatient from 26.07.2019 to 30.07.2019. In spite of intensive treatment given, he died on 11.08.2019. Therefore, the claimants laid a claim petition seeking compensation of Rs.35,00,000/- on the ground that the deceased died only due to the injuries suffered by him on road accident.

3. The 1<sup>st</sup> respondent remained *ex parte* before the Tribunal and the claim petition was contested only by the 2<sup>nd</sup> respondent-Insurance Company.



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It was the case of the 2<sup>nd</sup> respondent that accident had occurred only due to the rash and negligent driving of the deceased. It was further contended by the 2<sup>nd</sup> respondent that deceased died nearly after one year from the date of accident and hence, the death was not caused due to the injuries suffered by him in the accident, but it was due to the other illness.

4. Before the Tribunal, the 1<sup>st</sup> claimant was examined as PW.1 and on behalf of the claimants, 17 documents were marked as Exs.P1 to P17. On behalf of the respondents, no witness was examined and no documents were marked.

5. The Tribunal based on the evidence available on record fixed negligence on the part of the driver of the 1<sup>st</sup> respondent-vehicle. The Tribunal also came to the conclusion that the deceased died only due to hypertension and acute chronic kidney disease and his death was not due to the injuries suffered by him in the road accident. As a consequence, the Tribunal came to the conclusion that the claimants were not entitled to compensation for the death of deceased. However, it held that the claimants were entitled to compensation for the expenses incurred by the estate of the



deceased in treating the injuries suffered by him in a road accident.

WEB COURT Ultimately, the compensation payable to the claimants was quantified at Rs.3,68,793/-. Not satisfied with the quantum of compensation fixed by the Tribunal, the claimants have come before this Court.

6. The learned counsel appearing for the appellants/claimants vehemently contended that deceased died only due to the road accident and hence, the Tribunal committed an error in coming to the conclusion he died due to the kidney failure. The learned counsel further submitted that the amount awarded by the Tribunal under the head medical expenses is very much on lower side considering the medical bills produced by the claimants.

7. The learned counsel appearing for the 2<sup>nd</sup> respondent/Insurance Company would submit that deceased died nearly one year after accident and based on the evidence available on record, the Tribunal rightly came to the conclusion that the death was not due to the injury suffered by him in the road accident and the same requires no interference. The learned counsel also submitted that the claimants are not entitled to claim reimbursement of the expenses incurred in treating kidney disease of the deceased.



**WEB COPY** 8. Exs.P3 and P4 are the Discharge Summaries issued by Ganga Medical Centre and Hospital Limited, Coimbatore and St.Johns Medical College and Hospital, Bangalore. A perusal of Ex.P3-Discharge Summary would indicate that the deceased suffered fracture in his right femur and head injury. Even at the time of admission in the hospital under road accident, it was clearly mentioned that he was suffering from Chronic Interstitial Nephritis and Hypertension. Therefore, it is clear that even at the time of admission in the hospital immediately after road accident, he was suffering from chronic kidney disease.

9. The fracture suffered by the deceased was treated by internal fixation and nailing. He was discharged from the hospital on 31.07.2018. Thereafter, again, he was admitted to St.Johns Medical College Hospital on 22.01.2019 and he was treated there till 04.02.2019. A perusal of Ex.P4 issued by the said hospital would indicate that he was admitted for renal dysfunction. The patient underwent few sessions of Hemodialysis (HD) and he was improved symptomatically with static trend of renal function. It is also seen that he was advised to undergo cardiac angiography. Therefore, it



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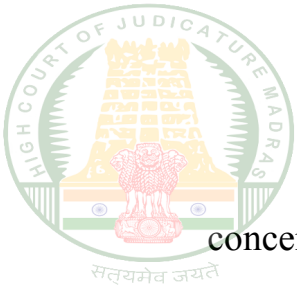
is clear that for the second time, he was admitted only for treatment of kidney disease and he was discharged after treatment. It is also seen that orthopaedic consultation was also obtained and the petitioner was advised to go for physiotherapy. Thereafter, he died on 11.08.2019. Therefore, it is clear that the fracture suffered by the injured was cured and he was under continuous treatment for his chronic kidney disease. At the time of death, no post-mortem was done and cause of his death is not clearly known. In such circumstances, the contention raised by the learned counsel for the claimants that he died due to the injury suffered in road accident is not acceptable to this Court in the light of Ex.P4-Discharge Summary issued by Hospital. Even though claim for compensation for the death of deceased is not maintainable, the claimants as dependents are entitled to loss suffered by the estate of the deceased in treating him for the injuries suffered in road accident. The Tribunal taking into consideration the said fact awarded compensation under various heads like loss of earning during treatment period, medical expenses, transportation expenses, extra nourishment, attender charges, damage to clothes and pain and suffering.



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10. The compensation awarded under the head pain and suffering is personal in nature and dependents of the road accident victim are not entitled to any compensation under the head pain and suffering. Therefore, the amount of Rs.1,00,000/- awarded by the Tribunal under the head pain and suffering is set aside. However, the amount of Rs.32,000/- awarded by the Tribunal under the head loss of earning requires enhancement. The Tribunal fixed the notional income of the deceased at Rs.8,000/- per month and granted compensation for four months. Taking into consideration the nature of injuries suffered by the deceased, this Court feels the claimants are entitled to claim loss of income for six months. The accident had occurred in the year 2018. Therefore, the notional income is fixed at Rs.16,500/-. In that case, the claimants are entitled to Rs.99,000/- under the head loss of earnings as against Rs.32,000/- awarded by the Tribunal (16,500 x 6).

11. The Tribunal awarded a sum of Rs.1,56,193/- under the head medical bills by taking into consideration Ex.P7-Medical Bills produced by the claimants. The Tribunal only considered the medical bills issued by the Ganga Medical Centre and Hospitals Private Limited, Coimbatore. As far as medical bills issued by St.Johns Medical College and Hospital, Bangalore is



concerned, the same was rejected on the ground that the deceased had taken treatment for renal failure in the said Hospital. For the injury suffered by him in the road accident, he was admitted in the Ganga Medical Centre and Hospitals Private Limited and the amount payable under the said head is fixed at Rs.1,56,193/-.

12. The rest of the bills issued by the Ganga Medical Centre and Hospitals Private Limited were rejected by the Tribunal on the ground that the deceased was admitted to said Hospital only for treatment of kidney disease. As mentioned earlier, the Discharge Summary issued by the Ganga Medical Centre and Hospitals Private Limited, it was mentioned the orthopaedic surgical opinion was also obtained and the deceased was advised to go for physiotherapy. Therefore, this Court feels it would be appropriate to award a lump sum of Rs.33,000/- towards expenses in getting advice from orthopaedician and physiotherapy. Hence, the amount awarded by the Tribunal under the head medical expenses is enhanced to Rs.1,89,193/-. The amount awarded by the Tribunal under various other heads like transportation charges, extra nourishment, attender charges, damaged to clothes etc., are affirmed. Accordingly, the award passed by the



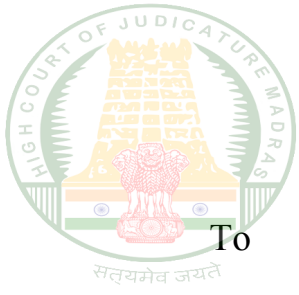
Tribunal is modified as follows:-

| Sl. No. | Description                      | Compensation awarded by the Tribunal | Compensation awarded by this Court | Remarks          |
|---------|----------------------------------|--------------------------------------|------------------------------------|------------------|
| 1.      | Loss of Earning                  | Rs.32,000/-                          | Rs.99,000/-                        | <b>Enhanced</b>  |
| 2.      | Medical Bills                    | Rs.1,56,193/-                        | Rs.1,89,193/-                      | <b>Enhanced</b>  |
| 3.      | Transportation to Hospital       | Rs.17,600/-                          | Rs.17,600/-                        | <b>Confirmed</b> |
| 4.      | Extra Nourishment                | Rs.50,000/-                          | Rs.50,000/-                        | <b>Confirmed</b> |
| 5.      | Attender Charges                 | Rs.10,000/-                          | Rs.10,000/-                        | <b>Confirmed</b> |
| 6.      | Damages to clothing and Articles | Rs.3,000/-                           | Rs.3,000/-                         | <b>Confirmed</b> |
| 7.      | Pain and Suffering               | Rs.1,00,000/-                        | -                                  | <b>Set Aside</b> |
| Total   |                                  | Rs.3,68,793/-                        | Rs.3,68,793/-                      |                  |

13. Therefore, the award passed by the Tribunal is confirmed and the Civil Miscellaneous Appeal stands dismissed and the respondents are directed to deposit the award amount as ordered by the Tribunal. No costs.

**05.03.2025**

Index :Yes  
Speaking order :Yes  
Neutral Citation :Yes  
dm



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To

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1.The Special District Court for Motor Accident Claims Cases,  
Krishnagiri.

2.The Branch Manager, Oriental Insurance Co.Ltd.,  
Branch office, G.K.Complex, 1<sup>st</sup> Floor,  
Dharmapuri Main Road,  
Pochampalli, Krishnagiri District.

3.The Section Officer,  
VR Section,  
High Court, Madras.



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**S.SOUNTHAR, J.**

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