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CMA.No.688 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 10.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTAR

CMA No.688 of 2025

1. Geetha

2. Minor Gowtham

3. Minor Sandhiya

(minors are rep. by their N/F mother Geetha)

4. Nagammal

... Appellants

Vs.

1. R.Boopathy

2. United India Insurance Co. Ltd.,

rep. by its Divisional Manager, Divisional Office,

D.No.316, State Bank of India Main Road,

Pothanur, Paramathivelur Taluk,

Namakkal District.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation amount made in MCOP No.953 of 2021 dated 13.03.2023 on the file of the Special District Court, Motor Accident Claims Tribunal, Krishnagiri.

For appellants : Mr.S.P.Yuaraj

For Respondents : Mr.J.Chandran for 2nd 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, father of 2nd and 3rd claimants and son of 4th claimant namely Jegan died in a road accident that had taken place on 22.06.2021. It is the case of the claimants that the deceased was riding a Hero Passion Pro Motor cycle slowly and steadily by following traffic rules on the left extreme side of Kuppam to Krishnagiri National High Road and while he was proceeding in the road opposite to Varattanapalli Perumal Sweets and Bakery stall, a goods Carrier 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 which he fell down and sustained grievous injuries and died. Therefore, the claimants filed claim petition seeking compensation of Rs.50,00,000/-. The first respondent remained exparte before the Tribunal and the claim petition was opposed by the second respondent/



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insurance company, denying the manner of accident as narrated in the claim petition. The Insurance company claimed that the deceased had driven the two wheeler in a rash and negligent manner and hence, entire negligence was on the part of the deceased.

3. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred due to the negligence on the part of the driver of the vehicle, insured with the second respondent and quantified the compensation payable to the claimants at Rs.20,99,000/-. Not satisfied with the quantum of compensation, the claimants have filed the present appeal.

4. 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.

5. The learned counsel for the appellants submits that having regard to the date of accident, the notional income fixed by the Tribunal



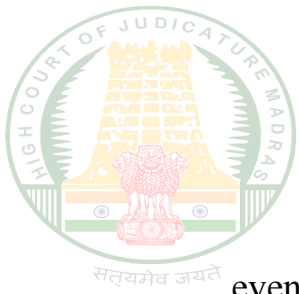
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at Rs.12,000/- is very much on lower side and hence, it requires enhancement.

6. The learned counsel for the second respondent/ insurance company would submit that the claimants examined PW3 to prove the income of the deceased and he deposed that the daily minimum wage for a mason, as per the government notification, was fixed at Rs.502/-. Since there is no guarantee that the claimant would get employment on all 30 days, the Tribunal was justified in fixing notional income of the deceased at Rs.12,000/- per month.

7. In the claim petition, it was stated by the claimants that the deceased was a mason and he was a member of Tamil Nadu Kattida Thozhilalr Sangam and was earning a sum of Rs.25,000/- per month. In order to prove the income of the deceased, the claimants examined one Mr.Jaishankar, Assistant Commissioner of Labour, Social Welfare Scheme, Krishnagiri as PW3. The PW3, in his evidence, clearly deposed that the minimum wage fixed by the Government of Tamil Nadu for Mason was Rs.502/- per day, in the year 2021. Therefore,

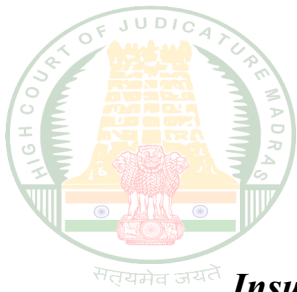


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even as per the evidence of PW3, the minimum daily wage of the deceased was Rs.502/-. As as rightly pointed out by the learned counsel for the second respondent, there is no guarantee that the deceased would get employment on all 30 days. However, the minimum wage fixed by the Government is only a guideline and the same cannot be taken as a sole factor for proof of income. In the light of the evidence of PW3 and uncertainty in getting job in all 30 days, this court is inclined to fix notional income of the deceased at Rs.15,000/- per month. At the time of accident, the deceased was aged about 42 years and hence, 25% enhancement shall be given towards Future Prospects and the proper multiplier to be adopted is 14. At the time of accident, four persons were depending on the income of the deceased. Therefore after deducting 1/4 towards personal expenses of the deceased, the claimants are entitled to a sum of Rs.23,62,500/- $(15000 \times 1.25 \times 12 \times 14 \times 3/4)$ towards loss of dependency.

8. 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*



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Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157(Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017) and hence, the same are confirmed.

9. 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	18,90,000	23,62,500	enhanced
2.	Loss of consortium	1,76,000	1,76,000	confirmed
3.	Loss of estate	16,500	16,500	confirmed
4.	Funeral expenses	16,500	16,500	confirmed
	Total	20,99,000	25,71,500	enhanced by 4,72,500

10. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.20,99,000/- is hereby enhanced to **Rs.25,71,500/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit.



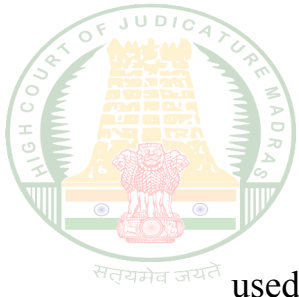
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11. From the above compensation now determined, the first claimant/wife is entitled to Rs.12,71,500/-, the minor claimants 2 and 3 are entitled to Rs.5,00,000/- each and the fourth claimant/mother is entitled to Rs.3,00,000/-.

12. 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 first and fourth 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.

13. Since the claimants 2 and 3 are being minors, their respective share shall be deposited in any one of the nationalized banks initially for a period of 3 years and the same shall be renewed periodically till their attainment of majority. The first claimant is entitled to withdraw the accrued interest thereon once in six months and the same shall be



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used for the welfare of the minor claimants 2 and 3.

14. There shall be no order as to costs.

10.03.2025

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

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



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S.SOUNTCHAR, J.

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