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CMA No. 1090 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1090 of 2025

- 1.Thirugnanasambandam
2. Vishnusuryavardhana
3. Vigneshchandravardhana

Appellants

Vs

1. JEYARAMAN
- 2.The Divisional Manager
The United India Insurance Company
Ltd, 13-A, Nethaji Road,
Manjakuppam, Cuddalore

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to set aside the award against the judgement and decree dated 01.02.2023 made in MACTOP.No.446/2021 on the file of the Motor Accident Claims Tribunal, Cuddalore(Principal District Court) Cuddalore.



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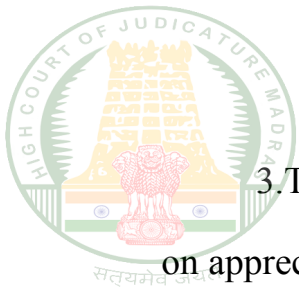
For Appellants: Ms.N Lavanya
For Mrs.M.Malar

For Respondents: Mr.M.Krishnamoorthy For R2
R1 - Notice Dispensed With

JUDGEMENT

Challenging the impugned award passed by the tribunal in MCOP.No.446 of 2021, the petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The petitioners are husband and sons of deceased Vasanthakumari. The case of the petitioners is that on 18.02.2021 at about 09.00 hours while the deceased was travelling in the 1st respondent bus bearing Regn. No. TN-82-Z-9393 in Kannukulam main road near Vijay nagar, the driver of the vehicle drove it in a random manner and at a very high speed in a rash and negligent manner, due to which, the deceased fell down from the bus and stuck in the wheel of bus and crushed under the tire and caused an accident. As a result of which, the deceased sustained grievous injuries on the head and multiple fractures all over the body and when she was taken to Government Hospital, Sirkazhi, she died on the way to the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.50,00,000/-.



3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.8,92,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income (Rs.11000 x 12 x 1/3 x 9)	7,92,000
2.	Love and affection	30,000
3.	Funeral expenses	15,000
4.	Loss of estate	15,000
5.	Loss of Consortium	40,000
	Total	8,92,000

4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The learned counsel for appellants would argue that the deceased was died due to the injury sustained in the accident, but the Tribunal failed to take note of the said fact and failed to consider her age, occupation and income of her. In spite of that, the tribunal had erroneously fixed the award only taking into consideration of the injury sustained by deceased Vasanthakumari. Hence, he



prayed to set aside the award passed by the tribunal and prayed for enhancement of compensation.

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6. The learned counsel for 2nd respondent raised objections stating that the accident was happened solely due to the carelessness and negligence of deceased, who was attempting to get down from the bus, lost control, fell down and sustained fatal injuries. He would further argue that the accident was happened in the year 2019, but without considering the cost of living at that time, the tribunal had fixed the notional income as Rs.11000/-. Hence, they prayed for enhancement of compensation.

7. The learned counsel for 2nd respondent raised objections stating that the deceased was aged about 56 years old and since she was doing readymade online business as self-employed, the Tribunal had rightly fixed the notional income as Rs.11000/-, which needs no interference.

8. Heard rival submissions of both learned counsel for appellants and respondent and perused the materials available on record.

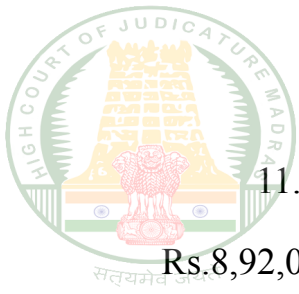
9. On perusal of records, it reveals that at the time of accident, deceased was aged about 56 years and she sustained grievous injury all over the body including head injury as well as other grievous injury. Immediately, when she



was taken to the Government Hospital, on the way, she died. Therefore, due to the injury sustained in the said accident, she died. But the Tribunal failed to take into consideration of the same. Hence, the compensation awarded by the Tribunal is liable to be set aside. Furthermore, on seeing the facts, it reveals that the accident was happened in the year 2021, she would have earned a sum of Rs.14,000/- and she was aged about 56 years. Therefore, on considering the cost of living, this Court is inclined to enhance the notional income of the deceased Vasanthakumar from Rs.11000/- to Rs.14000/- and also towards loss of love and affection, this Court is inclined to enhance the sum awarded as Rs.30,000/- is enhanced to Rs.90,000/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

10. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income (Rs.14000 x 12 x 1/3 x 9)	10,08,000
2.	Love and affection	90,000
3.	Funeral expenses	15,000
4.	Loss of estate	15,000
5.	Loss of Consortium	40,000
	Total	11,68,000



11. Accordingly, the compensation awarded by the tribunal at Rs.8,92,000/- is enhanced to Rs.11,68,00/-. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The 2nd respondent Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment.

12. On such deposit of the enhanced compensation amount now determined by this Court, the appellants 1 to 3 are entitled to share the amount proportionately as ordered by the Tribunal and the appellants 1 to 3 are permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn.

13. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

19-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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1. Motor Accident Claims Tribunal, Principal District Judge, Cuddalore.
2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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