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CMA No. 1311 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-06-2025

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMA No. 1311 of 2025

P.Manjula

Appellant

Vs

1. R.A. and Co

No.40/1, Kamarajar Salai,
Madhavaram, Tiruvallur Dt.-600 068

2.The Bajaj Allianz General Ins. Co Ltd

No. 497 and 498, 5th Floor, Isana
Kattima Building P H Road,
Atumbakkam, Chennai-106.

Respondents

PRAYER :- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to enhance the award against the fair Order dated 21.12.2023 and made in MACTOP No. 106 of 2021 in the Court of the Motor Accident Claims Tribunal No. 1, Special District Court, Thiruvallur.



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For Appellant(s): Mr.F.Terry Chella Raja For
Mrs.M.Malar

For Respondent(s): M/s. J. Michael Visuvasam For
R2
R1 - Dispensed With

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.106 of 2021, dated 21.12.2023 has preferred this appeal seeking for enhancement of compensation.

2.The petitioner is mother of deceased son and the case of the claimant is that on 17.04.2021 at about 5.40 a.m. while her son was riding his motor cycle in JN 100 feet road, Ashok Nagar near Buhari hotel, the 1st respondent's Eicher lorry bearing Regn.No.TN-18-AM-9643 driver drove the vehicle in a rash and negligent manner and hit behind the deceased motor cycle. As a result, the claimant's son sustained multiple and grievous injuries and succumbed to the injuries. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



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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 lorry. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.20,42,600/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency Rs.13,000/- (add 10% future prospects) =13000 + 5200 = 18200 18200 – 9100= 9100 9100 x 12 x 18 (multiplier) = 19,65,600	19,65,600
2.	Loss of Estate	16,500
3.	Loss of consortium	44,000
4.	Funeral Expenses	16,500
	Total	20,42,600

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



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5. The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation by raising the following grounds :-

- (1) The Motor Accident Claims Tribunal erred in awarding a sum of Rs.20,42,600/- as against the total claim of Rs.61,00,000/- restricted to Rs.50,00,000/-
- (2) The Motor Accident Claims Tribunal failed to consider the income of the deceased. At the time of accident, the deceased was aged about 21 years and he was a college student at A.M.Jain College, Chennai and self employed doing part time job as Milk Vendor and earned a sum of Rs.20,000/- per month whereas the Tribunal fixed Rs.13,000/- per month as the income of the deceased and 40% of his income was fixed as future prospects of deceased.
- (3) The Motor Accident Claims Tribunal ought not to deduct half of the income of the deceased as his personal expenses. The appellant was purely depended upon the earnings of the deceased. Therefore, the Tribunal ought not to deduct the income of the deceased as his personal expenses.
- (4) The Motor Accident Claims Tribunal ought to award more compensation under the head of loss of dependency, loss of



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estate, loss of consortium and funeral expenses and only 40% of the deceased income was fixed as the future prospects of the deceased.

6. The learned counsel for appellant would submit that at the time of accident, the deceased was B.Com. II year student and doing part-time job. But the tribunal erroneously fixed Rs.13,000/- instead of Rs.20,000/- per month, since the accident was happened in the year 2017. Therefore, the fixation of monthly income was challenged.

7. The learned counsel for 2nd respondent would submit that there is no proof that he was doing part-time job nor any certificate produced on the side of claimant that he was studying B.Com. at the time of accident. Countering the same, the learned counsel for appellant would submit that before the trial court, she had filed the deceased T.C. along with mark sheet marked as Ex.P13. By relying the same, the Tribunal had considered the fact that he is a B.Com. second year student of A.M. Jain College and he would have earned a sum of Rs.13,000/- per month by doing part-time job. Accordingly, he prayed to



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enhance the monthly income of deceased. In support of his contentions, he relied the ratio laid down by this court in ***C.M.A.Nos.149 of 2021 & 740 of 2021 dated 17.08.2021*** in the case of ***Maheshwari and others vs. V.Vimal and others.***

8.Heard the rival submissions made by learned counsel appearing on behalf of the appellant and learned counsel appearing on behalf of the 2nd respondent and perused the materials available on record.

9.The contention of the appellant is with regard to the notional monthly income that was fixed by the Tribunal. The deceased was studying B.Com. II year in A.M. Jain College and he was earning a sum of Rs.20,000/- per month by distributing milk in the locality. There was no proof regarding the avocation of the deceased and the monthly income earned. Therefore, the Tribunal fixed the notional monthly income at Rs.13,000/-. Considering the fact that the accident had taken place in the year 2021 and the age of the deceased was 20 years and his mother was the claimant, this Court is inclined to fix the notional monthly income at Rs.18,000/- and 40% can be added towards future prospects.



11. In the light of the above discussion, the compensation awarded by the

tribunal is modified as follows:

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S.No	Compensation awarded under the head		Amount (in Rs.)
1.	Loss of dependency	Rs.18,000/- (add 40% future prospects) = 18000 + 7200 = 25200 25200 (less 50% deduction) 25200 - 12600 = 12600 12600 x 12 x 18 (multiplier) = 27,21,600	27,21,600
2.	Loss of Estate	16500	16,500
3.	Loss of Consortium	44000	44,000
4.	Funeral expenses	16500	16,500
	Total		27,98,600

12. The compensation awarded by the tribunal at Rs.20,42,600/- is enhanced to Rs.27,98,600/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.27,98,600/-, 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 four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned,



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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. It goes without saying that the enhanced compensation that is paid by the Insurance Company can be recovered from the owner of the vehicle as was ordered by the Tribunal.

13. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

02-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, No.1, Special District Court, Thiruvallur.
2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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