



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-07-2025

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CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1672 of 2024

1. Keerthika

2. Minor Vigneshwaran

S/o.late Kanagaraj, Minor rep. by his
next friend Natural guardian mother
Keerthika

3. Thenmozhi

Appellants

Vs

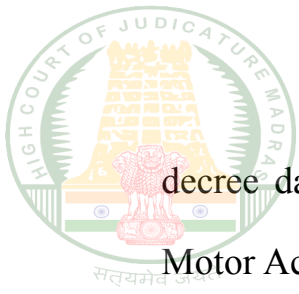
1. Rajalakshmi

2.Royal Sundaram General Insurance
Co. Ltd.

186/5, Royal Towers 3rd Floor, New
Bus Stand Road, Meyyanur, Salem-
636004

Respondents

PRAYER:-Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles
Act, praying to enhance the compensation amount made in Judgement and



decree dated 23.09.2022 made in MCOP No.1101 of 2017 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem by allowing this CMA.

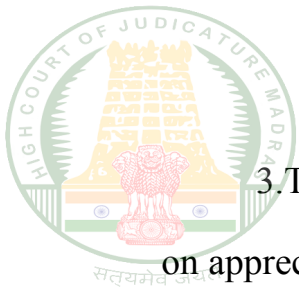
For Appellant: Mr. S.P.Yuaraj

For Respondents: Mr. G. Vasudevan For R2
R1 - Notice Dispensed With

JUDGMENT

Challenging the impugned award passed by the tribunal in MCOP.No.1101 of 2017, the petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The claimants are wife, son and mother of deceased Kanagaraj. The case of the claimants is that on 27.05.2017 at about 07.00 a.m. when the deceased riding a two wheeler bearing Regn. No. TN-30 AH-0270 on his extreme left in Salem-Sankari main road, near Senkattankadu S.P.Hotel at Pavattampalayam, A.Thalayur, the driver of a car bearing Regn. No. TN-30 BD-6816 drove it in a rash and negligent manner without any signal or sound in the same direction, dashed the petitioner's two wheeler and caused an accident. Due to which, the said Kanagaraj sustained grievous injuries and died on the spot. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.30,00,000/-.



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.10,85,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income (Rs.8000/- x 12 x 15 = 14,40,000 – 1/3 (4,80,000))	9,60,000
2.	Loss of love and affection (20,000 x 3)	60,000
3.	Loss of consortium	40,000
4.	Funeral expenses	25,000
	Total	10,85,000

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

5. The learned counsel for appellant argues that the tribunal failed to see the fact that the deceased is mason and he can earn Rs.20,000/- per month, but the tribunal has awarded lesser compensation towards monthly income and that too the accident was happened in the year 2017. Hence, he prayed to enhance the compensation awarded by the tribunal.



6. The learned counsel for 2nd respondent raised objections stating that as per the post-mortem certificate the age of deceased mentioned as 34 years, but the tribunal had fixed the age of the deceased as more than 35 years and the tribunal has rightly awarded compensation under other heads, which needs no interference. .

7. Heard rival submissions of both learned counsel for appellants and 2nd respondent and perused the materials available on record.

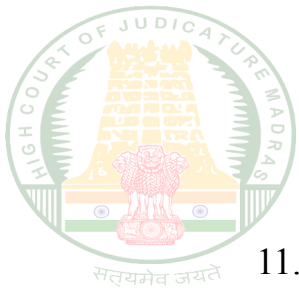
8. On perusal of records, it reveals that at the time of accident, deceased was aged about 34 years and he sustained grievous injury in the accident and died on the spot. So, the multiplier arrived by the tribunal at 15 is to be modified as 16. The deceased was a mason and the accident was happened in the year 2017. Considering that as well as the cost of living at that time, this Court is inclined to enhance the notional income of the deceased Kanagaraj from Rs.8000/- to Rs.16000/- and 40% of future prospects can be arrived. Furthermore, the Tribunal has granted only a sum of Rs.60,000/- under the head of 'Loss of love and affection'. This is on the lower side and hence, each of the claimant is entitled for a sum of Rs.40,000/- under this head. Accordingly, the total compensation under this head is fixed at Rs.1,20,000/- (Rs.40,000/- x 3). The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.



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

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	For loss of income Rs.16,000/- (add 40% future prospects) = 16000 + 6400 = 22400 22400 x 12 x 16 (multiplier) = 43,00,800 - 1/3 = 28,67,200	9,60,000	28,67,200	enhanced
2.	Loss of love and affection (Rs.40000 x 3)	60,000	1,20,000	enhanced
3.	Loss of consortium	40,000	40,000	confirmed
4.	Funeral expenses	25,000	25,000	confirmed
	Total	10,85,000	30,52,200	

10. Accordingly, the compensation awarded by the tribunal at Rs.10,85,000/- is enhanced to Rs.30,52,200/-. 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 respondent Transport Corporation 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 eight weeks from the date of receipt of copy of this judgment.



11. 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. As far as the share of minor appellant viz., 2nd appellant is concerned, the same shall be deposited in any nationalised bank bearing fixed deposit scheme until the minor attains majority and the interest thereon shall be withdrawn by minor appellants' mother, once in three months.

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

03-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Special District Court, Motor Accident Claims Tribunal, Salem.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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