



CMA.No.495 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 21.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.495 of 2025

1.Nithya

2. Minor Yuvasri

... Appellants

Vs.

1.M.Govindaraj

2. The Branch Manager,
United India Insurance Co. Ltd.,
Micro Office, 74/A-2, Sathya Medicals Complex,
Vaniyambadi Road, Thirupathur,
Vellore 635 601.

3. Rajammal

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in the judgment and decree dated 23.12.2022 made in MCOP No.108 of 2021 on the file of the Special District Judge, Motor Accident Claims Tribunal, Krishnagiri.



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For appellants : Mr.S.P.Yuvaraj

For Respondents : Mr.J.Chandran for second respondent

JUDGMENT

Not satisfied with the quantum of compensation granted by the Tribunal, the claimants have come before this court by filing the present appeal.

2. The claimants are wife and minor child of the deceased Panneerselvam. The first respondent is owner of the vehicle, the third respondent is mother of the deceased and the second respondent is the insurer of the first respondent's vehicle.

3. The respondents 1 and 3 remained exparte before the Tribunal. Hence, notice to them is dispensed with.

4. Heard the learned counsel for the appellants and the second respondent/insurance company.



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5. It is not in dispute that the husband of the first claimant and father of the second claimant died in a road accident that had taken place on 23.03.2020. It is the case of the claimants that the deceased was riding his Bajaj Pulsar two wheeler bearing Registration No. TN 24 AT 4015 in a National High Road from Dharmapuri to Krishnagiri. When the deceased was proceeding near Krimangalam-Agram Junction, a lorry owned by the first respondent and insured with the second respondent bearing registration No. TN 23 AU 1089 came in the opposite direction dashed against the two wheeler. As a result of which, the victim died. The claimants laid a claim petition seeking compensation of Rs.50,00,000/-. The Tribunal awarded only a sum of Rs.24,49,800/- as compensation. Not satisfied with the quantum of compensation, the claimants have come before this court.

6. 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.



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7. The learned counsel for the appellants/ claimants would submit that the deceased was aged 29 years at the time of accident and he was working as Master in a Bakery and earning a sum of Rs.30,000/- per month. He further submits that the Tribunal fixed notional income of the deceased only at Rs.12,000/-, which is very much on lower side.

8. The learned counsel for the second respondent/insurance company would submit that in order to prove the income of the deceased, the claimants have not produced any documents. Therefore, the Tribunal fixed notional income of the deceased at Rs.12,000/- per month and the same is reasonable.

9. In the claim petition, it was stated by the claimants that the deceased Panneerselvam was employed as a Master in a Bakery and he was earning a sum of Rs.30,000/- per month. However, the claimants have not produced any document to prove the income of the deceased. The accident had occurred on 23.03.2020. Therefore, taking into consideration the year of accident and cost of living, this court feels that it would be appropriate to fix notional income at Rs.17,000/-.

10. As per the Adhar Card Ex.P8 and driving License Ex.P9, the



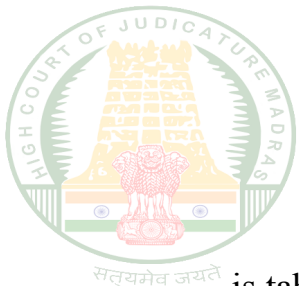
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Tribunal fixed the age of the deceased as 29 years at the time of accident and the same was not disputed by the second respondent. As per the law laid down by the Honourable Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157(Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017)*, 40% of income should be enhanced towards future prospects. Proper multiplier relevant to the age of the deceased is '17'. At the time of accident, three persons were depending on the income of the deceased and hence, 1/3 should deducted towards his personal expenses. Accordingly, loss of dependency is fixed at Rs.32,36,800/- [23,800 (17,000+ 6800) x 12 x 17 x 2/3).

11. The compensation awarded by the Tribunal under the heads Loss of Estate, Funeral Expenses and Loss of Consortium are in accordance with the law laid by the Hon'ble Supreme Court in *Pranay Sethi case* stated supra and hence, the same are confirmed.

12. Accordingly, the revised compensation awarded by this Court



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is tabulated as under:
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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	22,84,800	32,36,800	enhanced
2.	Loss of Estate	16,500	15,000	reduced
3.	Funeral Expenses	16,500	15,000	reduced
4.	Loss of Consortium	1,32,000	1,20,000	reduced
5.	Total	24,49,800	33,86,800	enhanced by 9,37,000

13. With the above modifications, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.24,49,800/- is hereby enhanced to **Rs.33,86,800** together with interest at 7.5% per annum (excluding the delay period of 661 days as per order in CMP No.2475 of 2025) from the date of petition till the date of deposit. The appellants are directed to pay applicable additional court fees.

14. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with



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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.

15. The Tribunal fixed the share of the **first claimant** as Rs.14,49,800/- and the same is **enhanced to Rs.16,36,800/-**. Like wise the **minor's share is enhanced** from 6,00,000/- to **Rs.12,00,000/-** and the **third respondent/mother of the deceased share is enhanced** from Rs.4,00,000/- to **Rs.5,50,000/-**.

16. The first appellant/ first claimant and the third respondent/mother of the deceased shall be permitted to withdraw their proportionate share from the total compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

17. The second appellant/second claimant being minor, her respective share is directed to be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of**



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three years which would be renewed periodically until she attains majority and the 1st appellant/first claimant, being the Natural Guardian of the minor second claimant, is permitted to withdraw the interest accrued thereon, **once in three months** and the same shall be used for the welfare of the minor second appellant/second claimant.

There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No
mst

To

1. The District Judge,
Motor Accident Claims Tribunal,
Krishnagiri.



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S.SOUNTHAR, J.

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