WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.850 of 2025

1.Aishwarya
2.Minor Mithun
3. Ponni
4. T.Jayaraman ... Appellants

Vs.

1.Narayanlal

2.The Manager
National Insurance Co. Ltd., Branch Office,
Bangalore Road, Opp. Raja Theatre,
Anuradha Complex,
Krishnagiri-635 001 ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to enhance the compensation amount made in order dated 23.11.2023 made in MCOP No.662 of 2022 on the file of the Special District Court for Motor Accident Claims Cases, Krishnagiri.

For Appellant : Mr.S.P.Yuaraj
For Respondent :M/s.N.B.Surekha for R2
R1- Notice dispensed with

https://www.mhc.tn.gov.in/judis

WEB COPY

JUDGMENT

Aggrieved by the quantum of compensation fixed by the Motor Accident Claims Tribunal, the claimants have come before this court by way of this appeal.

2. It is not in dispute that the husband of the first claimant, father of the second claimant and son of the claimants 3 and 4 namely Prabhu died in a road accident that had taken place on 13.09.2021 involving the Swift Dzire car belonged to the first respondent insured with the second respondent. It is stated by the claimants that the deceased was proceeding in Toyota Etios car from Narayana Hirudalaya hospital, Bangalore to Tirupattur slowly and steadily by following the traffic rules. The Swift Dzire car belonged to the first respondent insured with the second respondent came in a rash and negligent manner and dashed against the car driven by the claimant. Due to the accident, the claimant died on the spot and the claim petition was filed seeking compensation of Rs.50 lakhs.

https://www.mhc.tn.gov.in/judis

WEB COPY

3. The first respondent remained *ex-parte* before the tribunal and the claim petition was contested only by the second respondent on the ground that the deceased himself was a torfeasor. It was the case of the second respondent that there was no negligence on the part of the driver of Swift Dzire car and the entire negligence is on the part of the deceased.

4. The tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the Swift Dzire car insured with the second respondent. The compensation payable to the claimants was quantified at Rs. 27,79,400/- Not satisfied with the quantum, the claimants have come before this court seeking enhancement of the compensation.

5. Both the learned counsel for the appellant as well as the second respondent have not advanced any arguments on the questions of negligence as well as liability. Hence, the facts necessary to decide those questions are not discussed in this appeal.

https://www.mhc.tn.gov.in/judis

WEB COPY

6. The learned counsel for the appellant submitted that the accident had taken place in the year 2021 and the tribunal fixed notional income only at Rs.12,000/- and the same requires enhancement.

7. The learned counsel for the second respondent submitted that the claimants have not produced any documentary evidence to prove the avocation or income of the deceased. Hence, the notional income fixed by the tribunal is just and proper.

8. In the claim petition, it was stated by the claimants that the deceased was a private car driver, earning a sum of Rs.30,000/- per month at the time of accident. However, no oral or documentary evidence had been let in by the claimants to prove the avocation or income of the deceased. Even if no proof is available to prove the income of the deceased, this Court, by taking into consideration the facts and circumstances of the case, can fix the notional income. In the

https://www.mhc.tn.gov.in/judis

WEB COPY

case on hand, the accident had occurred in the year 2021. Taking into consideration the date of accident and the cost of living, this Court proceeds to fix Rs.18,000/- as notional income for the deceased.

9. The Tribunal, based on Exhibit P2, Post Mortem Report and Exhibit P9, Driving License, fixed the age of the deceased at 30 years. Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 17. Since there are four dependents, one-fourth of the amount has to be deducted towards the personal expenses of the deceased. Hence, the loss of dependency is fixed at Rs. 38,55,600/-.

18,000 x 1.4 x 12 x 17 x 3/4= Rs. 38,55,600/-.

10. The amount awarded by the Tribunal under the heads loss of estate, funeral expenses, loss of consortium are in accordance with the law settled in ***Pranay Sethi*** case and hence, they are confirmed.

https://www.mhc.tn.gov.in/judis

WEB COPY

11. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	25,70,400/-	38,55,600/-	Enhanced
2.	Loss of Estate	16,500/-	16,500/-	Confirmed
3.	Funeral Expenses	16,500/-	16,500/-	Confirmed
4.	Loss of Consortium (Claimants 1 to 4)	1,76,000/-	1,76,000/-	Confirmed
	Total	**27,79,400/-**	**40,64,600/-**	**Enhanced by Rs.12,85,200/-**

12. With the above modifications, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.27,79,400/- is hereby enhanced to Rs.40,64,600/-. It is made clear that the appellants/claimants are not entitled to claim any interest for the delay period of 322 days. The appellants are entitled to interest at the rate of 7.5% per annum (excluding the delay period of 322 days)

https://www.mhc.tn.gov.in/judis

WEB COPY

from the date of filing of the claim petition till the date of realization. The second respondent /Insurance company is directed to deposit the enhanced award amount before the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment.

13. As far as apportionment is concerned, the 1st claimant/wife of the deceased is entitled to Rs.18,64,600/- The 2nd claimant/minor son of deceased is entitled to Rs.16,00,000/-. The mother of the deceased/3rd claimant is entitled to Rs.4,50,000/-. The father of the deceased/4th claimant is entitled to Rs.1,50,000/-.

14. The 2nd appellant/ 2nd claimant being minor, his share of award amount is directed to be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which shall be renewed periodically until he attains majority and the 1st appellant/1st claimant, being the Natural Guardian of the minor 2nd 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 2nd claimant. The claimants 1, 3 and 4 are entitled to withdraw their

https://www.mhc.tn.gov.in/judis

WEB COPY

share of compensation amount, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The appellants are directed to pay the proportionate additional court fee on the enhanced sum. No costs.

21.03.2025

Index:Yes/No
Internet:Yes/No
nr

To

1. Motor Accident Claims Tribunal,
   Special District Court for Motor Accident Claims Cases,
   Krishnagiri.

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

https://www.mhc.tn.gov.in/judis

WEB COPY

S.SOUNTHAR, J.

nr

CMA No.850 of 2025

21.03.2025

https://www.mhc.tn.gov.in/judis