



CMA.No.690 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 10.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.690 of 2025

1. J.Charles

2. Michal Praveen

... Appellants

Vs.

1. M.Sunilkumar

2. The Manager, Chola MS General Insurance Co. Ltd.,
2nd floor, 'Dare House'. No.2 NSC Bose Road,
Chennai 600 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree dated 23.08.2024 made in MCOP No.1367 of 2021 on the file of the Special District Court, Motor Accident Claims Tribunal, Krishnagiri.

For appellants : Mr.P.Dinesh Kumar

For Respondents : Mr.J.Micheal Visuvasam for 2nd respondent

JUDGMENT



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

2. It is not in dispute that the wife of the first claimant and mother of the second claimant, namely Susanna Mary died in a road accident that had occurred on 08.03.2021. It was the case of the claimants that the deceased was proceeding in her TVS Heavy Duty Two wheeler on the extreme left side of the road and while she was proceeding near diversion road at Chirstupalayam on Denkanikottai - Thally Road, a Bajaj pulsar bike belonging to the first respondent, insured with the second respondent came in a rash and negligent manner and dashed against the deceased from back side. As a result of accident, the deceased received multiple injuries and later she died in hospital on 09.03.2021. Hence, the claim petition was filed by the claimants, seeking compensation of Rs.50,00,000/- before the Tribunal.

3. The first respondent remained exparte before the Tribunal and



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the claim petition was opposed only by the second respondent by denying the manner of accident as averred in the claim petition. The insurance company also denied the negligence on the part of the rider of the two wheeler, insured with it.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the vehicle, insured with the second respondent and quantified the compensation payable to the claimants at Rs.13,14,000/-. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come before this court by filing the present appeal.

5. The learned counsel for the appellants would submit that the accident had occurred in the year 2021, however, the Tribunal fixed very meager amount of Rs.9,000/- as notional income and hence, the same needs enhancement.

6. The learned counsel for the second respondent would submit



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that the claimants have failed to produce any documentary evidence to prove the income and avocation of the deceased and hence, the Tribunal was justified in fixing Rs.9,000/- as notional income. He further submits that the rider of the Bajaj Pulsar bike did not possess valid and effective driving license to drive the vehicle at the time of accident and thereby, he violated the Motor vehicles Act and insurance policy condition. Therefore, the Tribunal came to the conclusion that the insurer has to pay the award amount first to the claimants and then recover the same from the owner of the offending vehicle. Hence, the insurance company may be permitted to recover the compensation amount from the owner of Bajaj Pulsar bike.

7. In the claim petition, it was stated by the claimants that the deceased was employed as a tailor and was earning a sum of Rs.30,000/- per month. However, they have not produced any documents to prove the income or avocation of the deceased. Even if there is no document, this court can fix notional income. Therefore, taking into consideration the year of accident and the cost of living, this court feels that it would be appropriate to fix notional income at



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Rs.18,000/- per month. In Ex.P9, driving licence, age of the deceased was mentioned as 50 years. Therefore, the claimants are entitled to 25% enhancement towards Future Prospects and the proper multiplier to be adopted in this case is 13.

8. At the time of accident, the claimants 1 and 2 were depending on the deceased. The learned counsel for the second respondent would submit that the first claimant is husband and the second claimant, aged 30 years, is son of the deceased and hence, they cannot be treated as dependents of the deceased. He further submits that even if the husband alone is treated as dependent, the Tribunal should have deducted atleast 50% towards personal expenses of the deceased.

9. The service rendered by the deceased in her capacity as mother of the second respondent cannot be under estimated, even if the second respondent is aged 30 years. Therefore, the Tribunal was justified in treating both the husband and son as dependents of the deceased and deducting 1/3 towards the personal expenses of the deceased. Further, the spouse of the deceased survived her. It is not a case of death of



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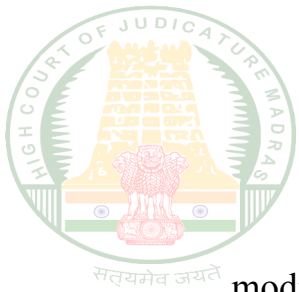
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bachelor or spinster. Hence, the submission of counsel for appellant that 50% shall be deducted towards personal expenses is rejected. Therefore after deducting $1/3$ towards personal expenses of the deceased, the claimants are entitled to a sum of Rs.23,40,000/- ($18000 \times 1.25 \times 12 \times 13 \times 2/3$] towards loss of dependency.

10. The compensation awarded by the Tribunal under the heads loss of Estate, Funeral expenses, and loss of consortium are in accordance with the law settled by the Apex 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)*** and hence, the same are confirmed. Like wise, the compensation awarded under Medical bills is also confirmed.

11. Further, the finding of the Tribunal directing the insurance company to pay the compensation amount to the claimants first and then recover the same from the owner of the Bajaj Pulsar bike is also confirmed.

13. Accordingly, the compensation awarded by the Tribunal is



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modified 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	11,70,000	23,40,000	enhanced
2.	Loss of consortium	88,000	88,000	confirmed
3.	Loss of estate	16,500	16,500	confirmed
4.	Funeral expenses	16,500	16,500	confirmed
5.	Medical bills	23,000	23,000	confirmed
6	Total	13,14,000	24,84,000	enhanced by 11,70,000

14. With the above modifications, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.13,14,000/- is hereby enhanced to **Rs.24,84,000/-** together with interest at 7.5% per annum (excluding the default period, if any) from the date of claim petition till the date of deposit. ***The appellants/claimants are directed to pay applicable court fee for the enhanced compensation amount.***

15. The **second respondent** is directed to deposit the



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compensation amount now determined by this Court, along with 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 and *then recover the same from the owner of the Bajaj Pulsar bike*. On such deposit being made, the claimants shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

There shall be no order as to costs.

10.03.2025

Index : Yes/No
Speaking order : Yes/No
Neutral citation : Yes/No
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To

1. The Special District Judge,
Motor Accident Claims Tribunal,
Krishnagiri.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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