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CMA.No.1022 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1022 of 2025

1. Mani @ Manonmani
2. Govindaraj
3. Eswari

... Appellants

Vs.

- 1.Ajith Singh
2. National Insurance Company Limited,
Hindustan Building, Bistupur, Jamshedpur, Jarkhand.
Service office:
National Insurance Company Limited,
73A, Paramathy Road, Namakkal District.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation amount awarded in MCOP No.108 of 2014 dated 11.09.2023 on the file of the I Additional District Judge, Motor Accident Claims Tribunal, Namakkal.

For appellants : Mr.T.S.Arthanareeswaran

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



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JUDGMENT

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 son of the first claimant and brother of the 2nd and 3rd claimants, namely Elangovan died in a road accident that had taken place on 21.03.2004. According to the claimants, the deceased was working as a lorry driver and he parked his lorry near the road in Tata Nagar, Kolkata Main Road and was sitting in the driver seat. At that time, a tipper lorry belonging to the first respondent, insured with the second respondent came in a rash and negligent manner and dashed against the parked lorry of the deceased. As a result of accident, he sustained grievous injuries and died. Therefore, the claimants filed claim petition seeking compensation of Rs.15,00,000/-.

3. The first respondent, owner of the lorry remained exparte before the Tribunal and the claim petition was opposed by the second respondent/ insurer of the tipper lorry on the ground that the accident



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had occurred due to the negligence on the part of the deceased. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred due to the negligence on the part of the driver of the tipper lorry, insured with the second respondent and quantified the compensation payable to the claimants at Rs.7,30,000/-. Not satisfied with the quantum of compensation, the claimants have filed the present appeal.

4. The learned counsel for the appellants submits that the deceased was a lorry driver at the time of accident. However, the Tribunal fixed notional income of the deceased at Rs.5,000/-, which is very much on lower side and hence, it requires enhancement.

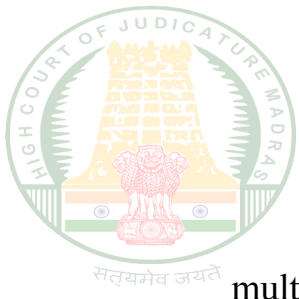
5. The learned counsel for the second respondent/ insurance company would submit that having regard to the date of accident (2004), the notional income fixed by the Tribunal is just and reasonable and therefore, it requires no enhancement.



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6. In the claim petition, it was stated by the claimants that the deceased was a lorry driver and was earning a sum of Rs.20,000/- per month. In order to prove the income of the deceased, the claimants have not produced any documentary evidence. The learned counsel for the appellants contended that a co-worker of the deceased was examined as PW2 to prove the avocation and income of the deceased. In order to prove that the deceased was qualified to drive the heavy vehicle, the claimants could have easily produced driving licence of the deceased. However, the same has not been produced. In the absence of any documentary evidence to prove the avocation and income of the deceased and also having regard to the date of accident, a sum of Rs.5,000/- fixed by the Tribunal as notional income of the deceased appears to be reasonable. It is also seen from the records that the the accident had occurred in the year 2004 and the claim petition was filed by the claimants only after 10 years, viz., in the year 2014. In such circumstances, there is nothing on record to suggest that the notional income fixed by the Tribunal is unreasonable one. The Tribunal, considering the age of deceased at 28 years, gave 40% enhancement towards future prospects and adopted applicable



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multiplier of 17. Further, at the time of accident, the deceased was a bachelor and and hence, after deducting 50% towards his personal expenses, awarded a sum of Rs. 7,14,000/- (5000 x 1.4 x 12 x 17 x ½) under the head loss of dependency. Therefore, the said finding of the Tribunal requires no interference by this court.

7. The Tribunal has not granted any compensation under the conventional heads. Therefore, the first claimant being the mother of the deceased is entitled to Rs.20,000/- towards filial consortium and the claimants 2 and 3, being the brother and sister of the deceased are entitled to Rs.20,000/- each towards loss of love and affection. The above said amount is fixed by this court, by taking into consideration the date of accident. (2004, nearly thirteen years prior to pronouncement of judgment in *Pranay Sethi Case*.)

8. The Tribunal awarded a sum of Rs.10,000/- under the head transportation expenses. Taking into consideration that the accident had occurred in Kolkatta and the dead body was brought to his native place, the compensation of Rs.10,000/- awarded under the head



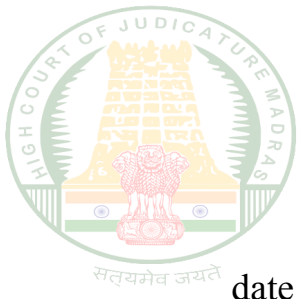
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transportation charges shall be treated as compensation towards loss of estate. The amount of Rs.6,000/- awarded under the head funeral expenses is confirmed.

9. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	7,14,000	7,14,000	confirmed
2.	Loss of consortium to first claimant	--	20,000	granted
3	Loss of love and affection to claimants 2 and 3	--	40,000	granted
3.	Transportation charges is modified as Loss of estate	10,000	10,000	confirmed
4.	Funeral expenses	6,000	6,000	confirmed
	Total	7,30,000	7,90,000	enhanced by 60,000

10. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,30,000/- is hereby enhanced to **Rs.7,90,000/-** together with interest at 7.5% per annum from the date of claim petition till the



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date of deposit. The claimants are not entitled to the interest for the delay period of 400 days, as per the order of this court in CMP No.5874 of 2025, dated 26.03.2025.

11. The **second respondent** is directed to deposit the compensation amount now determined by this Court to the credit of MCOP No.108 of 2014 on the file of the I Additional District Judge, MACT, Namakkal, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/ claimants shall be permitted to withdraw their respective compensation amount along with interest and costs, less the amount if any, already withdrawn, in the same proportion, as per the apportionment made by the Tribunal, by making formal application before the Tribunal.

There shall be no order as to costs.

09.04.2025

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



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WEB COPY **To**

1. The I Additional District Judge
Motor Accident Claims Tribunal,
Namakkal.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTCHAR, J.

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