



CMA.No.564 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.564 of 2025

National Insurance Company Limited
No.751, Anna Salai,
(Third Party Cell)
Chennai-600 002

... Appellant

Vs.

1.S.Tamilmani
2.S.Dharshini (Minor)
(Represented by her mother and Natural Guardian
S.Tamilmani)
3.C.Vijaya
4.G.Chinna Madhu
5.C.Rangasamy

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the Judgment and Decree dated 08-02-2024 and made in MCOP.No.3768/2015 on the file of the Court of the Special Sub Judge, No.II(Motor Accidents Claims Tribunal), Court of Small Causes, Chennai.

For Appellants : Mr.S.Vadivel
For Respondent : Mr.N.Manikandan



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JUDGMENT

The Civil Miscellaneous Appeal has been filed by the Insurance Company aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal.

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 Sasikumar died in a road accident that had taken place on 12.09.2013. It is the case of the claimants that said Sasikumar was driving a car bearing registration number TN07A7400 from Dharmapuri to Royakottai Road in South to North direction. The heavy lorry bearing registration number TN28AC6442, belonged to the 5th respondent, insured with the Appellant/ Insurance Company, came in a rash and negligent manner in the opposite direction and dashed against the car driven by the deceased. As a result of which, he received fatal injuries and died. Therefore, the claimants/dependents of the deceased filed the claim petition seeking compensation of Rs 50,00,000/-



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3. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred due to the negligence of the driver of the lorry belonged to the 5th Respondent and fixed negligence on the part of the driver of the lorry insured with the Appellant/ Insurance company. The compensation was quantified by the Tribunal at Rs.25,46,500/-. Aggrieved by the quantum of compensation, the Insurance company has filed this appeal.

4. Both the learned counsel for the Appellant as well as the learned counsel, who takes notice for the respondents 1 to 4/ claimants have not submitted any arguments on the questions of negligence and liability. Therefore, the facts necessary for deciding those questions are not discussed in this appeal.

5. The learned counsel for the Appellant/ Insurance Company submitted that the accident had occurred in the year 2013 and in the absence of any evidence available on record, the Tribunal fixed the notional income at Rs.11,000/- and the same is on the higher side. Therefore, he seeks this court to modify the quantum of compensation by fixing appropriate notional income.



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6. The learned counsel for the respondents 1 to 4/ claimants submitted that taking into consideration the year of accident, the amount of Rs.11,000/- fixed by the Tribunal is reasonable one and therefore, the compensation awarded by the Tribunal need not be interfered with.

7. In the claim petition, it was averred by the claimants that the deceased was engaged in the business of building construction and real estate and he was earning a sum of Rs.25,000/- per month. However, the claimants have not produced any substantial evidence to prove their claim regarding the income. Therefore, the Tribunal was constrained to fix notional income by taking into consideration the facts and circumstances of the case. The Division bench of this court in the case of *Andal and Others Vs Avinav Kannan and another* reported in **MANU/TN/6368/2018**, issued guidelines to fix the notional income in cases where the claimants failed to produce any acceptable evidence regarding the income. As per the guidelines issued by the Division bench in the above mentioned case law, for the year 2013-2014, a sum



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WEB COPY of Rs.11,085/- can be fixed as the notional income. In the case on hand, the Tribunal, taking into consideration the year of accident and the prevailing cost of living, rightly fixed Rs.11,000/- as notional income of the deceased and the said finding requires no interference by this court.

8. At the time of accident, the deceased was aged about 27 years. Therefore, the Tribunal rightly granted 40% enhancement towards future prospects and applied multiplier of 17. Since there are four dependents, the Tribunal deducted one-fourth of the amount towards personal expenses of the deceased and arrived loss of dependency at Rs.23,56,500/-. The Tribunal rightly granted Rs.40,000/- towards loss of consortium to each of the claimants and Rs.15,000/- each towards loss of estate and funeral expenses as per the law laid down in ***Pranay Sethi*** Case. I do not find anything to interfere with the findings of the Tribunal. Accordingly, the Civil Miscellaneous Appeal stands dismissed.



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9. The Appellant /Insurance Company is directed to deposit the award amount together with the interests 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. On such deposit, the claimants are permitted to withdraw the same along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal subject to satisfying Tribunal about attainment of majority by minor 2nd claimant. Consequently, the connected miscellaneous petition is closed. No costs.

28.02.2025

Index:Yes/No
Internet:Yes/No
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To

1. Motor Accident Claims Tribunal,
Special Sub Judge, No.II, Court of Small Causes, Chennai.
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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