



C.M.A.No.473 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.473 of 2025

1.Mari

2.S.Palanivel

... Appellants

VS.

1.M.Thamena

2.Bajaj Allianz General Insurance Co. Ltd.,
'Isana Kattima Building', 5th Floor,
New No.497 and 498, Poonamallee High Road,
Arumbakkam,
Chennai 600 106.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, to allow this Civil Miscellaneous Appeal by enhancing the compensation awarded in the Judgment and Decree, dated 27.09.2024, passed in M.C.O.P.No.3352 of 2017, on the file of the Motor Accident Claims Tribunal, Chennai (In the Court of Small Causes, Chennai).

For Appellants : Mr.K.Balaji

For R2 : Mr.J.Michael Visuvasam
for M/s.R.V.Sivaraj

For R1 : Notice Dispensed With



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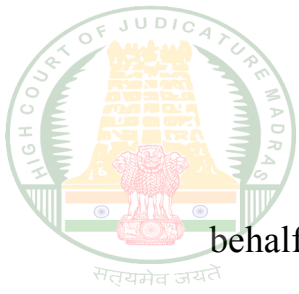
J U D G M E N T

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Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, claimants have come by way of this appeal.

2. It is not in dispute that daughter of appellants/claimants namely Soundarya died in a road accident that had occurred on 16.05.2017, while she was riding her bi-cycle on the left hand side of the Inner Ring Road near Velacherry Flying Railway Station. It is the case of the claimants that Van bearing Registration No.TN-09-M-0421 belonged to the 1st respondent insured with the 2nd respondent was driven in a rash and negligent manner and dashed against the bi-cycle of the deceased. As a result of the accident, the deceased sustained head injury and died. Therefore, a claim petition was laid by parents of the deceased seeking compensation of Rs.25,00,000/-.

3. Before the Tribunal, the 2nd appellant/2nd claimant was examined as PW.1 and two others witnesses were examined was PW.2 and PW.3. On behalf of the claimants, 20 documents were marked as Exs.P1 to P20. On



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behalf of the 2nd respondent-Insurance Company, no witness was examined and no document was marked.

4. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred due to the rash and negligent driving of the 1st respondent's Van Driver and awarded a compensation of Rs.23,78,000/-. Not satisfied with the quantum of compensation, the claimants have come before this Court.

5. Both the learned counsel appearing for the appellants/claimants as well as learned counsel appearing for the 2nd respondent-Insurance Company have not advanced any arguments on the question of negligence and liability. Therefore, facts necessary to decide those questions are not discussed in this judgment.

6. The learned counsel appearing for the appellants/claimants would submit that deceased was a II Year B.Com., student at the time of accident and she was also employed as a part-time Sales Personnel in M/s.Chennai Silks and was earning a sum of Rs.9,000/- per month and the Tribunal



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committed an error in fixing only Rs.15,000/- as notional income of the deceased without considering the potentiality of the commerce student.

7. The learned counsel appearing for the 2nd respondent/Insurance Company would submit that deceased was only a student at the time of accident and in the absence of any evidence to show income, the Tribunal was justified in fixing Rs.15,000/- as notional income.

8. In order to prove that the deceased was a II Year B.Com Student, Ex.P12-College ID Card was marked. A perusal of the same would indicate that the deceased was a B.Com Student in The Quaide Milleth College. In order to prove that the deceased was a part-time employee working in M/s.Chennai Silks, the Public Relations Officer of the said Undertaking was examined as PW.3. He deposed that deceased was working as a Sales Personnel and she was drawing a salary of Rs.5,833/- at the time of accident. He also deposed that after finishing B.Com course, there was a possibility of appointing her in the accountant job in the very same undertaking for a monthly salary of Rs.25,000/-.



9. Taking into consideration the evidence of PW.3 and Ex.P12, this

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Court comes to the conclusion that at the time of accident, the deceased was a II Year B.Com Student and there is a potential to earn more after finishing the course. Therefore, the notional income fixed by the Tribunal is very much on lower side and the same is enhanced to Rs.18,000/- per month. Based on Ex.P14-Birth Certificate, the age of the deceased was fixed at 18 years by the Tribunal. Therefore, the claimants are entitled 40% enhancement toward future prospects. The applicable multiplier is 18. In such circumstances, the loss of dependency is fixed at Rs.27,21,600/- (Rs.18,000 x 1.4 x 12 x 18 x 1/2).

10. Since the deceased died as a spinster, 50% of the amount is deducted towards her personal expenses. The amount awarded by the Tribunal under the other heads like loss of consortium, loss of estate and funeral expenses are in accordance with the law laid down by the Apex Court in *National Insurance Company Limited vs. Pranay Sethi and others* reported in (2017) 16 SCC 680 and therefore, they are confirmed.



11. In view of the discussions made earlier, the award passed by the

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Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Dependency	Rs.22,68,000/-	Rs.27,21,600/-	Enhanced
2.	Loss of Consortium	Rs.80,000/-	Rs.80,000/-	Confirmed
3.	Loss of Estate	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
Total		Rs.23,78,000/-	Rs.28,31,600/-	Enhanced by Rs.4,53,600/-

12. Accordingly, the compensation awarded by the Tribunal is enhanced to Rs.28,31,600/- from Rs.23,78,000/-. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.28,31,600/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.3352 of 2017 on the file of the Motor Accident Claims Tribunal, Chennai (in the III Court of Small Causes, Chennai), after deducting the amount deposited already, if any, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellants/claimants are permitted to withdraw the award amount equally by



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making formal application before the Tribunal.

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13. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

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Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm

To

- 1.The Motor Accident Claims Tribunal, Chennai,
(In the Court of Small Causes, Chennai).
- 2.Bajaj Allianz General Insurance Co. Ltd.,
'Isana Kattima Building', 5th Floor,
New No.497 and 498, Poonamallee High Road,
Arumbakkam,
Chennai 600 106.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

dm

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