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CMA.No.939 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.939 of 2025

1. Kasthuri

2. Minor K.K.Vimal

Minor rep. by next friend/mother/Kasthuri

3. Jayakodi

... Appellants

Vs.

1. RGovindaraj

2. The Manager, National Insurance Co. Ltd.,
Branch office, third floor, Anuradha Complex,
Bangalore Road, Krishnagiri 635 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation amount made in MCOP No.694 of 2021 dated 09.12.2022 on the file of the Special District Court, Motor Accident Claims Tribunal, Krishnagiri.

For appellants : Ms. L.Manisha

for Mr.S.P.Yuvaraj

For Respondents : Mr.C.Prabakaran for 1st respondent

Mr.C.R.Krishnamoorthy for 2nd respondent



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JUDGMENT

This appeal has been filed by the claimants seeking enhancement of compensation awarded by the Tribunal.

2. The husband of the first claimant and father of the 2nd claimant and son of 3rd claimant, namely Karunakaran died in a road accident that had occurred on 11.03.2021. According to the claimants, the deceased was working as Contract worker in National Highways Patrolling party at the relevant point of time. On the fateful day, he received information regarding brake down of a lorry near Fly over of Aavin Bridge. Therefore, the deceased went to the spot to carry out the rescue operation. When he was standing at the place of occurrence, a crane belonging to the first respondent and insured with the second respondent was operated by its driver in a rash and negligent manner and dashed against the deceased. As a result of accident, he sustained grievous injuries and subsequently died in the hospital. Therefore, the claimants filed a claim petition seeking compensation of Rs.50,00,000/-



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3. The first and second respondents filed counter and denied the liability on the ground that the crane driver had operated the vehicle slowly and steadily by following the traffic rules and the accident had occurred only due to the rash and negligence 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 crane by its driver. The compensation payable to the claimants was quantified at Rs.21,22,200/-. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come before this court.

5. Both the counsel for the appellants and the second respondent have not advanced any arguments on the questions of liability and negligence and hence, the points necessary to decide those questions are not discussed in the present appeal.



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6. The learned counsel for the appellants would submit that the accident had occurred in the year 2021 and the Tribunal fixed only a sum of Rs.11,650/- as income of the deceased and the same is very much on lower side.

7. The learned counsel for the respondents submits that the Tribunal, based on the pay slip produced by the deceased, fixed the income of the deceased at Rs.11,650/- and the same requires no enhancement.

8. It is the case of the claimants that at the relevant point of time, the deceased was a Member of the patrolling party and was working as a contract worker in National Highways and the pay slip of the deceased was marked as Ex.P19. A perusal of Ex.P19 would suggest that the deceased was paid a gross salary of Rs.13,298/- and after making deduction towards EPF, ESI and Professional tax, a net salary of Rs.11,650/- was paid to the deceased. Therefore, the Tribunal committed an error in taking the net salary for the purpose of calculating compensation.



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9. The deduction of Rs.1,332/- towards EPF and Rs.100/- towards ESI are all for the benefit of the estate of the deceased. Therefore, those deductions shall be included while fixing notional income of the deceased. However, the deduction of Rs.216/- towards professional tax cannot be included in the income. Accordingly, the income of the deceased, after deducting professional tax is fixed at Rs.13,082/-. Based on the postmortem certificate Ex.P3, and the I.D cards Ex.P11 and Ex.P13, age of the deceased was fixed at 38 years by the Tribunal. Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is '15'. Since there were three persons depending on the income of the deceased at the time of accident, 1/3 shall be deducted towards personal expenses of the deceased. Accordingly, the claimants are entitled to a sum of Rs.21,97,776/- $(13,082 \times 1.4 \times 12 \times 15 \times 2/3)$ towards loss of dependency.

10. The compensation awarded by the Tribunal under the heads loss of consortium, loss of love and affection, loss of estate and funeral expenses are in accordance with the law settled by the Apex Court in



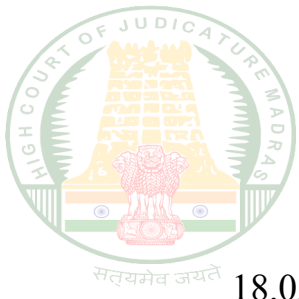
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National Insurance Company Limited Vs. Pranay Sethi and others
reported in (2017) 16 SCC 680 and hence, the same are confirmed.

11. 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	19,57,200	21,97,776	enhanced
2	Loss of estate	16,500	16,500	confirmed
3.	Funeral expenses	16,500	16,500	confirmed
4.	Loss of consortium to first claimant and loss of love and affection to 2nd claimant and loss of filial consortium to 3rd claimant	1,32,000	1,32,000	confirmed
	Total	21,22,200	23,62,776	enhanced by 2,40,576

12. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.21,22,200/- is hereby enhanced to **Rs.23,62,776/-** together with interest at 7.5% per annum (excluding the delay period of 687 days as per the order of this court in CMP No.3388 of 2025, dated



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18.03.2025) from the date of claim petition till the date of deposit.

13. From the above compensation now determined, 1st claimant/wife is entitled to Rs.14,12,776/-, 2nd claimant/son is entitled to Rs.6,00,000/- and the 3rd claimant/mother is entitled to Rs.3,50,000/-.

14. The **second respondent** is directed to deposit the compensation amount now determined by this Court to the credit of MCOP No.694 of 2021 on the file of the Special District Judge, MACT, Krishnagiri, 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. On such deposit being made, the claimants 1 and 3 shall be permitted to withdraw their respective compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.



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15. Since the 2nd claimant being a minor, his share shall be deposited in a fixed deposit in any one of the nationalized banks, initially for a period of 3 years and the same shall be renewed periodically till his attainment of majority. The first claimant is entitled to withdraw the accrued interest thereon once in six months and the same shall be used for the welfare of the minor/ 2nd claimant.

There shall be no order as to costs.

04.04.2025

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

1. The 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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