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CMA No.572 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.572 of 2025

1. J.Saroja
2. A.Saranya
3. S.Sounthari

...Appellants

vs.

1. Krishnamoorthi
2. United India Insurance Company Limited,
No.134, Silingi Building, Greams Road,
Chennai 600 006.

... Respondents

Prayer: The Civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to enhance the award amount made in MCOP No.853 of 2022, dated 20.09.2024 on the file of the Special Judge-II, Motor Accident Claims Tribunal, Small Causes Court, Chennai.

For Appellants : Mr.S.Ravi Kumar

For Respondents : Mr.J.Chandran

for second respondent

ORDER



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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 husband of the first claimant and the father of the claimants 2 and 3, namely Jayabalan died in a road accident that had taken place on 12.01.2022. It is the case of the claimants that the deceased had attempted to cross the road in front of the Ind Tiles shop in Poonamallee High Road, Vanagaram, at that time, a two wheeler belonging to the first respondent insured with the second respondent came in a rash and negligent manner and hit the victim. As a result of accident, the deceased died. The claimants filed a claim petition before the Tribunal seeking compensation of Rs.30,00,000/-. The Tribunal based on the evidence available on record awarded a compensation of Rs.11,40,000/-. Not satisfied with the quantum of compensation, the claimants have filed the present appeal.

3. The learned counsel for the appellants and the second



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respondent have not advanced any arguments on the question of negligence as well as liability. Therefore, the facts necessary for deciding the above questions are not discussed in this appeal.

4. The learned counsel for the appellants would submit that the deceased was working as security in a private concern and was earning a sum of Rs.15,000/- per month. However, the Tribunal fixed notional income only at Rs.12,500/- and the same is very much on lower side. He further submits that the compensation awarded by the Tribunal under the heads loss of consortium, loss of love affection and loss of estate are also required 10% enhancement, as per the law laid down by the Hon'ble Supreme Court in *Pranay Sethi Case*.

5. The learned counsel for the second respondent would submit that the claimants have not produced any documents to prove the avocation and income of the deceased and hence, the Tribunal rightly fixed the notional income of the deceased at Rs.12,500/- and the same required no interference by this court.

6. It is seen from the averments made in the claim petition that



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the deceased was employed as a security in a private concern and was earning a sum of Rs.15,000/- per month. However, the claimants have not produced any evidence to prove the income of the deceased. Even if there is no evidence for proof of income, considering the facts and circumstances of the case and the year of accident, this court can fix notional income. The accident had occurred in the year 2022. Hence, considering the year of accident, this court can fix notional income more than Rs.15,000/-. However, as per the pleadings in the claim petition, this court proceeds to fix monthly income of the deceased at Rs.15,000/-. As per the postmortem report Ex.P3 and death certificate Ex.P4, the Tribunal fixed the age of the deceased as 60 years and the same has not been disputed by the second respondent. Therefore, 10% enhancement should be given towards future prospects. Having regard to the age of the deceased, the applicable multiplier is 9. At the time of death, there were three persons depending on the income of the deceased. Hence, 1/3 should be deducted towards personal expenses. Accordingly, loss of dependency is fixed at Rs.11,88,000/- (15,000 x 1.1 x 12 x 9 x 2/3).

7. The Tribunal awarded a sum of Rs.40,000/- each towards

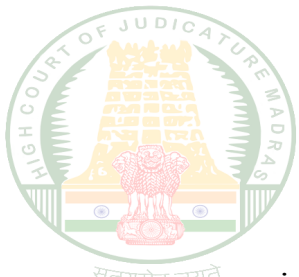


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consortium to the first claimant/wife, and loss of love and affection to the claimants 2 and 3 each. The Tribunal also awarded a sum of Rs.15,000/- each towards loss of estate and funeral expenses. In the case on hand, the accident had occurred in the year 2022. As per the law laid down by the Hon'ble Supreme 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]***, 10% enhancement shall be given to the amount awarded under conventional heads, once in three years, in case the accident occurs after three years from the date of decision in ***Pranay Sethi Case (i.e. 31.10.2017)***. In the case on hand, the accident had taken place in the year 2022 and hence, 10% enhancement should be given on the above said heads. Accordingly, a sum of Rs.44,000/- each is awarded towards loss of consortium to the first claimant and loss of love and affection to the second and third claimants each. Likewise, a sum of Rs.16,500/- each is awarded under the heads loss of estate and funeral expenses.

8. Accordingly, the compensation awarded by the Tribunal is



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revised and tabulated 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	9,90,000	11,88,000	enhanced
2.	Loss of consortium to wife	40,000	44,000	enhanced
3.	loss of love and affection to two children	80,000	88,000	enhanced
4.	Loss of estate	15,000	16,500	enhanced
7.	Funeral expenses	15,000	16,500	enhanced
8	Total	11,40,000	13,53,000	enhanced by 2,13,000

9. With the above modifications, **this Civil Miscellaneous Appeal is partly allowed** and the compensation awarded by the Tribunal at Rs.11,40,000/- is hereby enhanced to **Rs.13,53,000/-** together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit.

10. From the above compensation now determined by this court, the first claimant/wife is entitled to Rs.8,13,000/- and the claimants 2



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and 3/ daughters are entitled to Rs.2,70,000/- each.

11. The second respondent is directed to deposit the compensation amount now determined by this Court, 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, the appellants/claimants shall be permitted to withdraw their respective compensation amount along with interest and costs, less the amount if any, already withdrawn. No costs.

28.02.2025

Index:Yes/No
Internet:Yes/No
mst

To

1. The II Special Judge,
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.
2. The Section Officer,
V.R.Section, Madras High Court, Chennai.



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S.SOUNTHAR, J.

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