



C.M.A.No.603 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.603 of 2024

1.Shanthi

Elumalai

(Died during the pendency of the enquiry)

...Appellants

Vs.

1.Arjun

2.ICICI Lombard General Insurance Co. Ltd.,

No.84 & 85, Wall Tax Road,

1st Floor, Arihant Plaza,

Chennai – 600 003.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 14.12.2021 made in M.A.C.T.O.P.No.5487 of 2016 on the file of IV Court of Small Causes, Chennai, Motor Accident Claims Tribunal.



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For Appellants : Mr.K.V.Muthu Visakan
For Respondents : Mr.J.Michael Visuvasam
for Mr.R.V.Sivaraj for R2

J U D G M E N T

This appeal is filed by the appellants challenging the judgment and decree dated 14.12.2021 passed in M.C.O.P.No.5487 of 2016 on the file of Motor Accidents Claims Tribunal (IV Court of Small Causes, Chennai).

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioners are the claimants, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.

4.The brief facts of the case are as follows:

On 06.06.2016 at about 06.15 hours, when the deceased was a pillion rider of the motorcycle bearing Registration No.TN 05 AM 8453



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from Tambaram to Puzhal Bypass Road, came opposite to Murugan Temple at Kallikuppam, at that time, the rider of the motorcycle drove in a rash and negligent manner and dashed against the lorry, due to which the deceased fell down and sustained multiple and grievous injuries which lead to death. The petitioners filed a claim petition before the Tribunal in M.C.O.P.No.5487 of 2016, the Tribunal awarded a sum of Rs.13,17,600/- as compensation after deducting 20% contributory negligence. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellants submitted that the deceased was a pillion rider whereas the accident occurred only due to the rash and negligence riding by the motorcycle bearing Registration No.TN 05 AM 8453. But the Tribunal erroneously fixed 20% contributory negligence on the part of the deceased which is not sustainable. He further submitted that the compensation awarded by the Tribunal is very meagre and hence, he filed the present appeal for challenging contributory negligence and enhancement.



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6.Learned counsel appearing for the second respondent submitted that the rider of the motorcycle had no driving license and the deceased was not wearing the helmet at the time of the accident. Therefore, the Tribunal rightly fixed 20% contributory negligence on the part of the deceased which is reasonable and no interference is required by this Court. Hence, he prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellants, learned counsel for the second respondent and perused the materials available on record.

8.Before the Tribunal, the first petitioner was examined as PW1, Mr.K.Manohar, an eyewitness to the accident was examined as PW2 and on the side of the petitioners, 14 documents were marked as Exs.P1 to P14. On the side of the respondents, Mr.R.Arjun was examined as RW1, Mr.Shanmugam, Legal Manager, Insurance Company was examined as RW2 and 8 documents were marked as Exs.R1 to R8.



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9.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.15,12,000/- for loss of dependency, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses, Rs.1,00,000/- for loss of love and affection, Rs.5,000/- for transportation expenses and arrived at a total compensation of Rs.13,17,600/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

10.On perusal of the records, it is seen that the petitioner was aged 24 years and was working as a car driver at the time of the accident.

11.The findings of the Tribunal with regard to fixation of 20% contributory negligence on the part of the deceased is extracted hereunder:

“...In this case the rider of the motorcycle had no driving license and at the time of occurrence the deceased was not wearing the helmet. Hence, on the aspect, this Tribunal fixed as 20% Contributory negligence on the part of the deceased.



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In view of these circumstances, this Tribunal is of the view that there was contributory negligence on the part of the rider for the accident to have occurred. Therefore, this Tribunal is of the opinion that 20% may be fixed towards contributory negligence on the part of the deceased, for the accident to have taken place, and the same is, accordingly, fixed.”

12.On perusal of the records, it is seen that the Tribunal fixed 20% contributory negligence on the part of the deceased, which is excessive. Considering the facts and circumstances of the case and the submission made by the learned counsel for the appellants, this Court is inclined to fix contributory negligence on the part of the deceased at 10%.

13.The amount awarded under the various heads, in the opinion of this Court is just and reasonable and the same is confirmed except the amount awarded under the head loss of earning, in the opinion of this Court is very meagre and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded under



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the head loss of dependency is enhanced to Rs.21,62,700/- from Rs.13,17,600/-.

14.Considering the facts and circumstances of the case and the submission made by the learned counsel for the appellants, this Court is inclined to fix the notional monthly income of the deceased at Rs.15,000/-, modify the award and accordingly, the compensation awarded by the Tribunal is re-assessed as follows:

(Rs.15,000 x 12 = Rs.1,80,000/- + 40% future prospects = Rs.72,000+Rs.1,80,000/-= Rs.2,52,000/- - 1/2 deduction; Rs.1,26,000/- x 18 = Rs.22,68,000/-.)

<i>S.No.</i>	<i>Description</i>	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss of dependency	15,12,000/-	22,68,000/-
2	Loss of estate	15,000/-	15,000/-
3	Funeral expenses	15,000/-	15,000/-
4	Loss of love and affection	1,00,000/-	1,00,000/-
5	Transportation expenses	5,000/-	5,000/-
	Total	16,47,000/-	24,03,000/-
	(*Less 10%	3,29,400/-	2,40,300/-*



<i>S.No.</i>	<i>Description</i>	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
	contributory negligence)		
	Total	13,17,600/-	21,62,700/-

15.The first appellant/claimant is entitled to total compensation of Rs.21,62,700/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

16.The judgment and decree passed by the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai in M.C.O.P.No.5487 of 2016 dated 14.12.2021 is modified to the above extent. The Pay and Recovery awarded by the Tribunal is confirmed.

17.The second respondent Insurance Company is directed to deposit the modified/enhanced award amount before the Tribunal within a period of 8 weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first appellant/claimant is permitted to withdraw the amount along with accrued interest and proportionate costs,



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after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

18.The first appellant/claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The first appellant/claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accident Claims Tribunal (IV Court of Small Causes, Chennai) Small Causes Court, Chennai shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the first appellant/claimant.

19.The Civil Miscellaneous Appeal is partly allowed with the above terms. No costs.

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Index: Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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T.V.THAMILSELVI, J.

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To

- 1.The Motor Accidents Claims Tribunal,
IV Court of Small Causes, Chennai.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.

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