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CMA.No.1255 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1255 of 2023

1. Murugan
2. Selvi

... Appellants

Vs.

1. J.John Dhillip
2. The Superintendent of Police,
Office of Superintendent of Police,
The Nilgiris

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in judgment and decree dated 27.01.2021 in MCOP No.2/2018 on the file of the Special District Judge, Motor Accident Claims Tribunal, The Nilgiris.

For appellants : Ms.D.Jeevitha

for Mr.R.Nalliyappan

For Respondents : Mr.C.Sathish, Government Advocate

for second respondent



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come before this court by filing the present appeal.

2. According to the claimants, their son namely, Udayakumar was riding a Yamaha Motorcycle on 14.07.2014 on the extreme left hand side of the road with moderate speed along with a pillion rider. When he crossed a bus, which was parked facing direction towards Ooty at Ketti Shortcut Bus stop, a car belonged to the second respondent was driven by the first respondent in a rash and negligent manner and dashed against the two wheeler of the deceased. As a result of accident, the deceased sustained grievous injuries and later he died in the hospital. According to the claimants, the deceased had completed his Bachelor of Engineering course and they filed a claim petition seeking compensation of Rs.20,00,000/- before the Tribunal.

3. The second respondent filed counter denying the manner of the accident as described in the claim petition and according to him,



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the accident had occurred only due to the rash and negligent driving of the motorcycle by 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 vehicle by the first respondent and quantified the compensation payable to the claimants at Rs.12,39,600/-. Not satisfied with the quantum of compensation, the claimants have filed the present appeal.

5. The learned counsel for the appellants/claimants would submit that having regard to the educational qualification of the deceased, the amount of Rs.8,000/- fixed by the Tribunal as notional income is very much on lower side.

6. The learned counsel for the second respondent would submit that as per Ex.P10, Transfer certificate, the claimant was a 7th semester student of B.E. Computer Science and therefore, the Tribunal was justified in fixing notional income at Rs.8,000/- per month.



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7. Both the counsel for the appellants and the second respondent have not advanced any arguments on the questions of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

8. A perusal of Ex.P10 -Transfer Certificate and Ex.P11-Bonafide Certificate would indicate that the deceased was a 7th Semester Student of B.E. Computer Science at the time of accident. Therefore, there was every possibility of deceased getting a good job with decent salary, immediately after finishing the B.E. Computer Science course. However, Ex.P11 Bonafide certificate issued by the College would indicate that the deceased failed to complete his B.E. course within the stipulated period due to the lack of attendance and he was re-admitted in the academic year 2014-2015. Therefore, it is clear that the deceased could not be termed as a bright student, having excellence in the academics. However, considering the facts and circumstances of the case and also the date of accident, this court is inclined to fix notional income of the deceased at Rs.15,000/- per month. At the time of accident the deceased was 21 years, as per



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Ex.P10 Transfer certificate and hence, 40% enhancement shall be given towards Future Prospects and the proper multiplier to be adopted is 18. At the time of accident, the deceased was a bachelor and hence, half of the amount shall be deducted towards his personal expenses. Accordingly, the claimants are entitled to a sum of Rs.22,68,000/- $(15000 \times 1.40 \times 12 \times 18 \times 1/2]$ towards loss of dependency.

9. In addition to the above said compensation, the claimants are entitled to Rs.40,000/- each towards filial consortium.

10. The amount awarded by the Tribunal under the heads Funeral Expenses and Loss of estate are in accordance with the law settled by the Apex Court in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157* and hence, the same are confirmed.

11. Accordingly, the revised compensation awarded by this Court is 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	12,09,600	22,68,000	enhanced
2.	Loss of filial consortium	---	80,000	granted
3.	Loss of estate	15,000	15,000	confirmed
4.	Funeral expenses	15,000	15,000	confirmed
	Total	12,39,600	23,78,000	enhanced by Rs.11,38,400

12. With the above modifications, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.12,39,600/- is hereby enhanced to **Rs.23,78,000/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit (excluding the delay period of 282 days as per order in CMP No.5823 of 2023). The appellants are directed to pay applicable court fees on the enhanced compensation now determined by this court.

13. 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



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period of **six weeks** from the date of receipt of a copy of this judgment.

On such deposit being made, the claimants shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

There shall be no order as to costs.

27.03.2025

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

To

1. The District Judge
Motor Accident Claims Tribunal,
The Nilgiris.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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