C.M.A.No.1264 of 2024

T.V.THAMILSELVI, J.

Today, this Civil Miscellaneous Appeal is listed under the caption, "For Being Mentioned" at the instance of learned counsel for Appellants/Claimants.

2. The learned counsel appearing for Appellants/Claimants submitted that in the present case, the Tribunal had awarded a sum of Rs.15,12,000/- under the head, "Loss of Dependency" by fixing Rs.10,000/- as notional monthly income of the deceased, adding 40% towards future prospects of the deceased, deducting 50% towards personal expenses of the deceased and applying the multiplier '18'. This Court vide Judgment dated 05.08.2025, enhanced the amount awarded under the head, "Loss of Dependency" by fixing Rs.16,000/- as notional monthly income of the deceased, adding 40% towards future prospects of the deceased, deducting 1/3rd towards personal expenses of the deceased and applying the multiplier '18', as per which, the Loss of Dependency ought to have been calculated as follows:

Rs.16,000 + Rs.6,400/- (40% of Rs.16,000) x 12	**= Rs.2,68,800/-**
Rs.2,68,800 – Rs.89,600 (1/3 of Rs.2,68,800)	**= Rs.1,79,200/-**
Rs.1,79,200/- x 18	**= Rs.32,25,600/-**

However, the Loss of Dependency has been erroneously calculated as Rs.16,12,800/-. Therefore, the learned counsel prayed that the said erroneous calculation made in Paragraph No.7 of the Judgment dated 05.08.2025 in C.M.A.No.1264 of 2024, may be rectified.

3. The learned counsel appearing for 2nd Respondent/Insurance Company submitted that he has no serious objection for rectifying the erroneous calculation made in Paragraph No.7 of the Judgment dated 05.08.2025 in C.M.A.No.1264 of 2024 passed by this Court.

4. Considering the submissions made by the learned counsel on either side, the erroneous calculation made in Paragraph No.7 of the Judgment dated 05.08.2025 in C.M.A.No.1264 of 2024 passed by this Court is rectified and the last sentence of said Paragraph is modified as follows:

> *"7. ………………………….. Thus, by applying the multiplier '18' and deducting 1/3rd towards personal expenses of the deceased, the amount awarded under the head, "Loss of Dependency" is enhanced as Rs.32,25,600/-, the break-up details of which are as follows:*
>
> ***Rs.16,000 + Rs.6,400/- (40% of Rs.16,000) x 12 = Rs.2,68,800/-***
> ***Rs.2,68,800 – Rs.89,600 (1/3 of Rs.2,68,800) = Rs.1,79,200/-***
> ***Rs.1,79,200/- x 18 = Rs.32,25,600/-"***

5. Since the amount awarded under the head, "Loss of Dependency" is enhanced as Rs.32,25,600/-, the total amount of compensation is enhanced as Rs.34,53,100/-. Therefore, in the Tabulation in Paragraph No.9 of the Judgment dated 05.08.2025 in C.M.A.No.1264 of 2024, Rs.16,12,800/- which has been mentioned as the amount awarded under the head, Loss of Dependency is replaced by Rs.32,25,600/- and Rs.18,40,300/- which has been mentioned as total compensation awarded by this Court is replaced by Rs.34,53,100/-.

6. Further, out of the total amount of enhanced compensation, 20% i.e., Rs.6,90,620/- is deducted towards contributory negligence fixed on the part of the deceased and thus, Appellants/Claimants are entitled to Rs.27,62,480/-. Therefore, in Paragraph Nos.10 & 13 of the Judgment dated 05.08.2025 in C.M.A.No.1264 of 2024, Rs.14,72,300/- which has been mentioned as the compensation entitled to Appellants/Claimants is replaced by Rs.27,62,480/-.

7. Thus, Paragraph Nos.9, 10 & 13 of the Judgment dated 05.08.2025 in C.M.A.No.1264 of 2024 are modified as follows:

"9. In the light of the above discussion, the compensation awarded by the Tribunal is modified as follows:

S.No.	***Heads***	***Compensation awarded by the Tribunal***	***Compensation awarded by this Court***
1	*Loss of Dependency*	*Rs.15,12,000/-*	*Rs.32,25,600/-*
2	*Loss of Consortium*	*Rs.1,20,000/-*	*Rs.1,20,000/-*
3	*Medical Expenses*	*Rs.77,500/-*	*Rs.77,500/-*
4	*Loss of Estate*	*Rs.15,000/-*	*Rs.15,000/-*
5	*Funeral Expenses*	*Rs.15,000/-*	*Rs.15,000/-*
Total		*Rs.17,39,500/-*	*Rs.34,53,100/-*

Out of the total amount of enhanced compensation, 20% i.e., Rs.6,90,620/- is deducted towards contributory negligence fixed on the deceased.

10. Thus, Appellants/Claimants are entitled to the compensation of Rs.27,62,480/- (Rupees Twenty Seven Lakhs Sixty Two Thousand Four Hundred and Eighty only).

13. Since the Appellants/Claimants are entitled to enhanced compensation of Rs.27,62,480/-, it is made clear that Appellants/Claimants shall pay the necessary Court fee in order to receive the enhanced compensation amount."

8. In all other aspects, Judgment dated 05.08.2025 in C.M.A.No.1264 of 2024 shall remain unaltered. Registry is directed to issue a fresh judgment copy to all concerned, after carrying out the aforesaid modifications.

25.10.2025

mrr

T.V.THAMILSELVI, J.

mrr

C.M.A.No.1264 of 2024

25.10.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2025

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.M.A.No.1264 of 2024

1.S.Lakshmi
2. R. Senthil Kumar
3. S. Malini (Minor)
(Minor rep by her mother /1st petitioner ... Appellants

..Vs..

1.N. Rajamoorthy

2. United India Insurance Co. Ltd.,
Motor Third Party Hub, 4th floor
Silinghi Buildings,
No.134, Greams Road,
Thousand Lights
Chennai 600 006 ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 03.10.2023 made in MACTOP.No.5029 of 2018 on the file of the Motor Accidents Claims Tribunal/III Court of Small Causes, Chennai.

For Appellant : Mr.R.Kalai Arasan
For Respondents : Person not found - R1
Mr.Rathna Thara for R2

JUDGMENT

The claimants not being satisfied with the quantum of compensation awarded by the Tribunal in MACTOP.No.5029 of 2018, dated 03.10.2023 has preferred this appeal seeking for enhancement of compensation.

2. The case of the claimants is that on 14.07.2018 at about 20.15 hours, the deceased was riding a motorcycle bearing Regn.No.TN-14-K-7857 along Rajiv Gandhi Salai, north to south direction along with one Savithri as the pillion rider and while they were proceeding near Anjalai Men's and Women's Wear Shop, a car bearing Regn. No.TN-91-W-2986, which came in a rash and negligent manner, hit against the motorcycle and caused an accident, due to which, the rider sustained severe injuries and died during treatment on 16.07.2018. The pillion rider also sustained grievous injuries. Claiming that the driver of the car is responsible for the accident, the claimants have filed a claim petition before the Tribunal claiming a sum of Rs.37,00,000/-. The Tribunal after adjudicating the issues with reference to the documents and evidences, has awarded a total compensation of Rs.8,69,800/-.

3. Heard the learned counsel for the appellants and learned counsel for the second respondent and perused the materials available on record.

4. The learned counsel appearing for the Appellants/Claimants submitted that the Tribunal erred in deducting 50% contributory negligence on the part of the deceased who was a minor and not having driving license. Though PW2 deposed that the accident occurred due to the rash and negligent driving of the driver of the car, there is no contra evidence regarding negligence. The deceased as a painter was earning Rs.750/- per day. The Ex.P5 death report mentionied that the deceased is a painter and thus the Tribunal fixed a monthly income of Rs.10,000/- as there is no documentary evidence and the same is not correct. The Tribunal, ought to have fixed notional income at Rs.15,000/- per month as the year of the accident is 2018 and quantified the pecuniary loss. Without noticing that there are three claimants, the Tribunal erred in deducting 50% of the income towards personal expenses of the deceased. The rate of interest fixed by the Tribunal at 7.5% is not correct. The Tribunal, without appreciating the evidences properly, has awarded the total compensation of Rs.8,69,800/- and the said quantum is unreasonable and very low. Hence, he prayed to

enhance the compensation.

5. Per contra, the learned counsel appearing for the second respondent/Insurance Company has submitted that the two wheeler was driven by the minor without any license and had allowed a pillion rider to ride in the motorcycle rode by him. He further submitted that the compensation claimed by the appellants is highly excessive and baseless. He further submitted that the Tribunal after analysing the evidences on record, has rightly awarded the compensation to the appellants/claimants and hence, the award passed by the Tribunal does not warrant any interference by this Court. Hence, he prays for dismissal of the appeal.

6. On perusal of records, it is seen that the claimants are the mother, father and sisters of the deceased. The Tribunal has not properly considered the evidences properly and the documents marked. Considering the fact that the accident had occurred not because of the negligence on the part of the minor but because of the driver of the TATA Car, and that at the time of the accident, when the deceased along with pillion rider were proceeding in the two wheeler, they were hit by the car from the behind and therefore the

minor died with fatal injuries and the pillion rider sustained injuries. Thus the accident occurred due to the rash and negligent driving of the driver of the car, however, the two wheeler was driven by the minor without any license and had allowed a pillion rider to ride in the motorcycle rode by him. Therefore, the deceased also contributed to the accident. Therefore fixing 50% of contributory negligence on the deceased is higher. This court is inclined to fix only 20% of contributory negligence on the minor.

7. The PW1 has stated in her evidence that her son was a Painter helper and hence this court, considering the cost of living, is inclined to fix Rs.16000/- as his notional monthly income of the deceased. Since the age of the deceased is 16 years at the time of accident, 40% future prospectus would be added (16000x40%=6400; 16000+6400=22,400/-). Thus the annual income of the deceased is fixed as Rs.2,68,800/- (22,400 x 12). Since the age of the deceased is only 16 years at the time of death, the multiplier 18 is adopted for calculating compensation. Similarly, 1/3 of the amount would be deducted towards personal expenses. Thus, by applying the multiplier '18' and deducting 1/3 towards personal expenses, a sum of Rs.16,12,800/- is arrived. (2,68,800 x 18 x 1/3 =16,12,800/-)

8. Insofar as the heads such as loss of consortium, medical expenses, loss of estate and funeral expenses are concerned, the Tribunal has granted a just and fair compensation and hence, they do not call for any interference of this court and they are confirmed as such.

9.In the light of the above discussion, the compensation awarded by the Tribunal is modified in both the cases as follows:

Sl.No.	***Head***	***Compensation awarded by the Tribunal***	***Compensation awarded by this Court***
1.	Total loss of dependency	15,12,000/-	16,12,800/-
2.	Loss of Consortium	1,20,000/-	1,20,000/-
3.	Medical Expenses	77,500/-	77,500/-
4.	Loss of Estate	15,000/-	15000/-
5.	Funeral Expenses	15,000/-	15,000/-
6.	Total	17,39,500-	18,40,300/-

Out of the said compensation amount, 20% of the compensation comes to Rs.3,68,060/- and Rounded off to Rs.3,68,000/- Hence, a sum of Rs. (Rs.18,40,300 - 3,68,000) would be just compensation awarded by this court

10. Thus, the appellants/claimants are entitled to the enhanced compensation of **Rs.14,72,300/- (Rupees Fourteen Lakhs Seventy Two Thousand and Three Hundred only).** .

11.The Civil Miscellaneous Appeal is partly allowed. No costs.

12. The second respondent/Insurance Company is directed to deposit the enhanced compensation as ordered above, less the amount if any already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants/claimants are entitled to the enhanced compensation in the same ratio as apportioned by the Tribunal. The appellants 1 and 2 are permitted to withdraw their share of enhanced award amount by filing necessary application before the Tribunal The share of the third appellant, being minor, shall be deposited in any one of the Nationalised Bank till she attains the age of majority and her mother is

entitled to receive the interest once in 6 months for the welfare of the minor child.

13. Since the compensation amount now awarded is Rs.14,72,300/-, it is made clear that the claimants have to pay the appropriate Court fee in order to receive the enhanced award amount

05.08.2025

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking Order

To

1. The Motor Accidents Claims Tribunal/III Court of Small Causes, Chennai.

2.The Section Officer
V.R.Section, High Court of Madras.

T.V.THAMILSELVI.,J.
gv

C.M.A.No.1264 of 2024

05.08.2025