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CMA No. 745 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 745 of 2024

1. Nowsheen Fathima

2. Noor Mohammed

Appellants

Vs

1. A.Abdul Gafoor

2.The Manager

Magma HDI General Insurance Co.Ltd,
3rd Floor, LUZ Church Road,
Mylapore, Chennai-600004.

Respondent(s)

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to allow the present appeal award enhanced compensation in Judgment and decree dated 18-12-2023 in MCOP NO.3965/2021 on the file of the Motor Accident Claims Tribunal, Small Causes Court-VI, Chennai.



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For Appellants: Mr.R.Nalliyappan

For Respondents: Mr.E.K.Amalnath For R1
Mrs.R.Sree Vidhya For R2**JUDGMENT**

Challenging the impugned award passed by the tribunal in MCOP.No.3965 of 2021, the petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The petitioners are mother and father of deceased Mohamed Riyaz. The case of the petitioners is that on 15.07.2021 at about 11.00 hours, the petitioners' son was riding his two wheeler bearing Regn. No. TN-14 H-7861 along the 200 feet radial road, opposite to Kovilambakkam Toyota showroom from west and east direction, at that time, the driver of TATA Ace bearing Regn. No.TN-10 BL-9360 suddenly stopped to take U-turn without any indication and without following traffic rules and dashed on the back side of deceased two wheeler and caused an accident. Due to which, the deceased sustained fatal injuries, for which he underwent treatment in the hospital, but he died inspite of treatment. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.49,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the

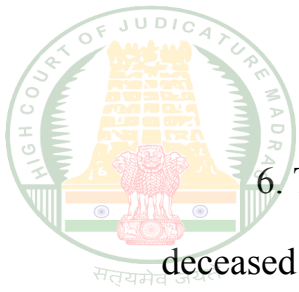


accident had taken place only due to the rash and negligent driving on the part of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.23,78,00/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency	22,680,000
2.	Loss of consortium	80,000
3.	Loss of estate	15,000
4.	Funeral expenses	15,000
	Total compensation awarded (by adding Sl. Nos. 1 to 4)	23,78,000

4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

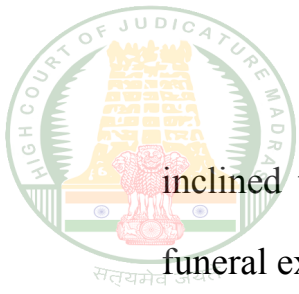
5. The learned counsel for appellants would argue that the accident was happened in the year 2021 and he was aged about 20 years and he was doing the business of food delivery, thereby he has earned a sum of Rs.20,000/- but without considering the cost of living at that time, the tribunal had fixed the notional income only as Rs.15000/-. He would also submit that the deceased was admitted in VHS hospital for 4 days and medical expenses charged is Rs.1,30,836/-, but the tribunal has not granted the medical expenses. Hence, they prayed for enhancement of compensation.



6. The learned counsel for 2nd respondent raised objections stating that the deceased was aged about 20 years and he was a B.Com Graduate and not completed his degree. He would also submit that there is no proof produced on the side of appellants for the income derived by him as food delivery boy around Rs.20,000/-. Hence, the Tribunal had rightly fixed the notional income as Rs.15,000/-, which needs no interference.

7. Heard rival submissions of both learned counsel for appellants and 2nd respondent and perused the materials available on record.

8. On seeing the facts, it reveals that the accident was happened in the year 2021, even per day the income is to be considered as a sum of Rs.600/-, he would have earned Rs.18,000/-. Therefore, this Court is inclined to enhance the notional income of the deceased Mohamed Riyaz from Rs.15,000/- to Rs.18000/-. Furthermore, the Tribunal has not granted medical expenses spent by the petitioners in a private hospital. Considering that, this Court is inclined to grant the medical expenses of Rs.1,30,000/-. The tribunal has awarded only a sum of Rs.80,000/- under the head of 'Loss of love and affection'. This is on the lower side and hence, each of the claimant is entitled for a sum of Rs.44,000/- under this head. Accordingly, the total compensation under this head is fixed at Rs.88,000/- (Rs.44,000/- x 2). The tribunal has awarded a only sum of Rs.15,000/- each towards loss of estate and funeral expenses and this court is



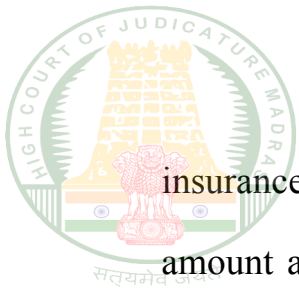
inclined to increase the same as Rs.16,500/- each towards loss of estate and funeral expenses.

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

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	For loss of dependency Rs.18,000/- (add 40% future prospects) = 18000 + 7200 = 25200 25200 x 12 x 18 (multiplier) = 54,43,200 – 1/2 = 27,21,600	22,68,000	27,21,600	enhanced
2.	Loss of love and affection (Rs.44000 x 2)	80,000	88,000	enhanced
3.	Loss of estate	15,000	16,500	enhanced
4.	Funeral expenses	15,000	16,500	enhanced
5.	Medical expenses		1,30,000	granted
	Total	23,78,000	29,72,600	enhanced

10. Accordingly, the compensation awarded by the tribunal at Rs.23,78,000/- is enhanced to Rs.29,72,600/-. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The second respondent



insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit of the enhanced compensation amount now determined by this Court, the appellants 1 and 2 are entitled to share the amount proportionately as ordered by the Tribunal and the appellants 1 and 2 are permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn.

11. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

07-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, VI Judge, Court of Small Causes, Chennai.
2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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