



C.M.A.No.1026 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 08.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.1026 of 2025

1.Santhosh

2.Devi (Minor)

3.Kirthika (Minor)

4.Raju (Minor)

... Appellants

*(Minors Appellants 2 to 4 represented by their Father
and next Friend Santhosh the 1st Appellant)*

vs.

1.M/s.Thirumala Structurals,
No.48, Balaji Nagar, Ambattur,
Chennai – 600 053

2.HDFC ERGO General Insurance Company Limited,
No.94/95, RR Tower 2, II Floor,
T.V.K. Guindy Industrial Estate,
Chennai – 600 032

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this Civil Miscellaneous Appeal by enhancing the compensation awarded in the Judgment and Decree, dated 19.01.2024,



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passed in M.C.O.P.No.887 of 2021, on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes at Chennai.

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For Appellant : M/s.Amar Dineshbhai Pandiya

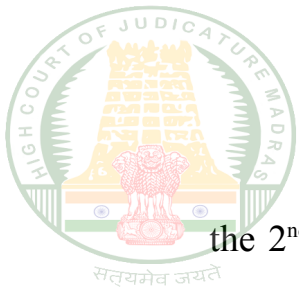
For R2 : Mr.K.Vinod

For R1 : Notice Dispensed With

J U D G M E N T

Aggrieved by the quantum of compensation fixed by the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai in M.C.O.P.No.887 of 2021, dated 19.01.2024, the claimants have come before this Court.

2. According to the appellants/claimants, the wife of 1st claimant and mother of claimants 2 to 4 namely Sendamarai died in a road accident that had occurred on 27.12.2020. According to the claimants, the victim was travelling as a pillion rider in a two wheeler bearing Registration No.TN 06 W 4637 from Chennai to Tindivanam on National Highways. When the two wheeler came near Mamandur Loral Mall, a Long Wheel Lorry bearing Registration No.TN 18 Z 5454 belonged to the 1st respondent insured with



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the 2nd respondent was driven by its driver in a rash and negligent manner and dashed against the two wheeler from behind. Due to the accident, the victim sustained injuries and died on the spot. Hence, a claim petition was filed seeking compensation of Rs.40,00,000/-.

3. The 1st respondent-owner of the lorry remained *exparte* before the Tribunal and the claim was resisted by the 2nd respondent/Insurer on the ground that the victim also contributed to the accident. The age, income and avocation of the deceased were also stoutly denied by the 2nd respondent.

4. Before the Tribunal, the 1st appellant/1st claimant was examined as PW.1 and an eye-witness was examined as PW.2. On behalf of the claimants, 14 documents were marked as Exs.P1 to P14. On behalf of the 2nd respondent-Insurance Company, no witness was examined and no document was marked.

5. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the negligence on the part of the driver of the lorry and hence, the Tribunal held that the



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respondents 1 and 2 were liable to pay compensation. The amount payable to the claimants was quantified at Rs.27,71,000/-. Not satisfied with the quantum of compensation, the claimants have come before this Court.

6. The learned counsel appearing for the appellants/claimants as well as the learned counsel appearing for the 2nd respondent-Insurance Company have not advanced any arguments on the questions of negligence and liability. Hence, facts necessary to decide those questions are not discussed in this judgment.

7. The learned counsel appearing for the appellants/claimants would submit that the notional income of Rs.12,000/- fixed by the Tribunal is meagre one and it requires enhancement.

8. The learned counsel appearing for the 2nd respondent/Insurance Company would submit that the claimants have failed to lead any evidence to prove the avocation and income of the deceased and hence, the Tribunal was justified in fixing Rs.12,000/- as notional income of the deceased.



9. In the claim petition it was stated by the claimants that the deceased

was employed in a Canteen and was earning a sum of Rs.20,000/- per month. However, in order to prove the income and avocation of the deceased, the claimants have not produced any documentary evidence. Even if there is no proof for income and avocation of the deceased, this Court by taking into consideration the facts and circumstances of the case can fix the notional income.

10. In the case on hand, the accident had occurred on 27.12.2020 and taking into consideration the date of accident and prevailing cost of living, this Court is inclined to fix Rs.16,500/- as notional income of the deceased. The claimants have produced Aadhaar Card of the deceased, which was marked as Ex.P12 and based on the same the age of the deceased was fixed at 30 years by the Tribunal. Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 17. Since there are four dependents, $\frac{1}{4}^{\text{th}}$ of the amount has to be deducted towards personal expenses of the deceased. Therefore, the loss of dependency is fixed at Rs.35,34,300/- (Rs.16,500 x 1.4 x 12 x 17 x $\frac{3}{4}$).



11. Since the accident occurred after 3 years from the date of delivery of judgment in *National Insurance Company Limited vs. Pranay Sethi and others* reported in (2017) 16 SCC, the amount awarded by the Tribunal under the heads loss of estate, funeral expenses and loss of consortium are enhanced to Rs.16,500/-, Rs.16,500/- and Rs.1,76,000/- respectively. The amount of Rs.10,000/- awarded by the Tribunal under the Transportation Charges is covered by loss of estate and hence, the same is set aside. Therefore, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Income /Dependency	Rs.25,70,400/-	Rs.35,34,300/-	Enhanced
2.	Towards Loss of Estate	Rs.15,000/-	Rs.16,500/-	Enhanced
3.	Loss of Consortium	Rs.1,60,000/-	Rs.1,76,000/-	Enhanced
4.	Funeral Expenses	Rs.15,000/-	Rs.16,500/-	Enhanced
5.	Transport Charges	Rs.10,000/-	-	Set Aside
Compensation Payable		Rs.27,70,400/-	Rs.37,43,300/-	Enhanced
Rounded Off to		Rs.27,71,000/-	Rs.37,43,300/-	Enhanced by Rs.9,72,300/-



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12. In view of the discussions made earlier, the compensation payable to the claimants is enhanced to Rs.37,43,300/- from Rs.27,71,000/- Out of the said amount, the 1st claimant is entitled to Rs.10,43,300/-. The minor claimants 2 to 4 are entitled to Rs.9,00,000/- each.

13. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.37,43,300/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.887 of 2021 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai, within a period of six weeks from the date of receipt of copy of this judgment.

14. On such deposit, the 1st claimant is permitted to withdraw his share of the award amount by making formal application before the Tribunal.

15. The share of the minor claimants 2 to 4 shall be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which shall be renewed periodically until they attain



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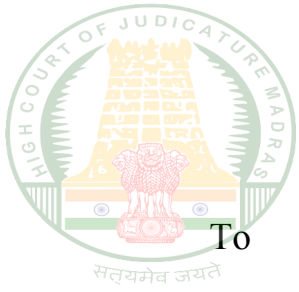
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majority and the 1st appellant/1st claimant, being the Natural Guardian of the minors/claimants 2 to 4, is permitted to withdraw the interest accrued thereon **once in three months** and the same shall be used for the welfare of the minor appellants 2 to 4/claimants 2 to 4.

16. Accordingly, the Civil Miscellaneous Appeal is allowed. The appellants/claimants are directed to pay applicable additional court fee. No costs.

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Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm



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To

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Chief Judge, Court of Small Causes, Chennai.

2.HDFC ERGO General Insurance Company Limited,
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3.The Section Officer,
VR Section, High Court,
Madras.



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S.SOUNTHAR, J.

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