



CMA.No.692 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 10.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.692 of 2025

1. A.Rajeshwari
 2. T.P.Hrithik Roshan (Minor)
rep. by his mother and next friend
A. Rajeshwari
 3. T.Mallika
 4. T.Rajagopal
- Vs.**
- ... Appellants

- 1.Shaik Mahaboob Basha
 2. Cholamandalam MS General Insurance Company Ltd.,
Motor Thir Party Claims, Shaw Wallace Building,
2nd floor, No.154, Thambu Chetty Street,
Chennai 600 001.
- ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation amount made in MCOP No.2010 of 2023 dated 10.12.2024 on the file of the Chief Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For appellants : Mr.Amar Dineshbhai Pandiya



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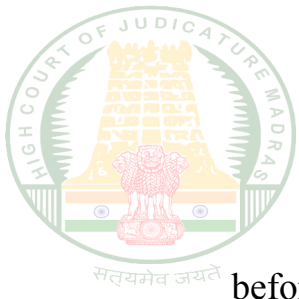
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For Respondents : Mr.J.Micheal Visuvasam for 2nd respondent

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. It is not in dispute that the husband of the first claimant, father of 2nd claimant and son of 3rd and 4th claimant namely T.R.Prabhakar died in a road accident that had taken place on 14.03.2023. It is the case of the claimants that the deceased was riding an Avenger Motor cycle by following the traffic rules along Nagari-Tirupati Highway Road and while he was nearing in front of KKC College, near Parameshwara Mangalam Village, an Eicher Goods Carriage Lorry, belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the two wheeler of the victim, as a result of which, he sustained grievous injuries and died. Therefore, the claimants filed claim petition seeking compensation of Rs.70,00,000/-. The first respondent remained exparte



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before the Tribunal and the claim petition was contested by the second respondent/ insurance company, denying the manner of accident as narrated in the claim petition. It was the case of the Insurance company that the accident had occurred due to the negligence and carelessness on the part of the deceased.

3. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the lorry, insured with the second respondent. The said finding attained finality and the same is not questioned by the second respondent.

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

5. The learned counsel for the appellants submits that the



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accident had taken place in the year 2023, however, the Tribunal fixed notional income only at Rs.17,000/- and the same requires enhancement.

6. The learned counsel for the second respondent/ insurance company would submit that the claimants have not produced any documentary evidence to prove the income of the deceased and hence, the Tribunal was justified in fixing notional income at Rs.17,000/- per month.

7. In the claim petition, it is stated by the claimants that the deceased was a Sanitary Supervisor and was earning a sum of Rs.20,000/- per month. However, to prove the avocation and income of the deceased, they have not produced any documentary evidence. Therefore, taking into consideration the year of accident and the cost of living, this court feels that it would be appropriate to fix notional income at Rs.18,000/- per month.

8. As per Ex.P9 Aadhar Card, the Tribunal fixed the age of the



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deceased as 29 years and the same is not disputed by the insurance company. Therefore, the claimants are entitled to 40% enhancement towards Future Prospects and the proper multiplier to be adopted in this case is 17. At the time of accident, four persons were depending on the income of the deceased. Therefore after deducting 1/4 towards personal expenses of the deceased, the claimants are entitled to a sum of Rs.38,55,600/- (18000 x 1.40 x 12 x 17 x 3/4] towards loss of dependency.

9. The compensation awarded by the Tribunal under the heads loss of Estate, Funeral expenses, and loss of consortium 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(Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017)*** and hence, the same are confirmed.

10. The Tribunal awarded a sum of Rs.10,000/- under the head Transportation charges, including damages to personal belongings. Since a sum of Rs.16,500/- is granted towards loss of estate, the



compensation awarded under the above said head is set aside.

11. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	36,41,400	38,55,600	enhanced
2.	Loss of consortium	1,76,000	1,76,000	confirmed
3.	Loss of estate	16,500	16,500	confirmed
4.	Funeral expenses	16,500	16,500	confirmed
5.	Transportation, including personal belongings	10,000	--	set aside
	Total	38,60,400	40,64,600	enhanced by 2,04,200

12. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.38,60,400/- is hereby enhanced to **Rs.40,64,600/-** together with interest at 7.5% per annum (excluding the default period, if any) from the date of claim petition till the date of deposit.

13. From the above compensation now determined, the first



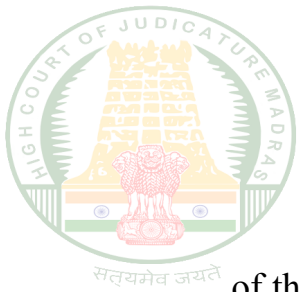
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claimant/wife is entitled to Rs.20,64,600/-, the minor /2nd claimant is entitled to Rs.13,00,000/-, the third claimant/mother is entitled to Rs.3,50,000/- and the fourth claimant/father is entitled to Rs.3,50,000/-

14. 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 period of **four weeks** from the date of receipt of a copy of this judgment. On such deposit being made, the first, third and fourth claimants shall be permitted to withdraw their respective compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

15. Since the second claimant being minor, his share shall be deposited in any one of the nationalized banks initially for a period of 3 years and the same shall be renewed periodically till his attainment of majority. The first claimant is entitled to withdraw the accrued interest thereon once in six months and the same shall be used for the welfare



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of the minor/ 2nd claimant.
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There shall be no order as to costs.

10.03.2025

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

1. The Chief Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTCHAR, J.

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