



CMA No.1385 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1385 of 2025

1. Vidya
W/o.Late. Madhavan

2.Minor.Roobak Udayanithi
S/o. Late.Madhavan

3.Minor.Harshithasri
D/o.Late Madhavan

4.Sokkammal
W/o.Arunachalam

5.Arunachalam
S/o.Late. Ramasamy

... Appellants

Vs.

1.Vigneshwaran
S/o.Kumarasamy

2.M/s.United India Insurance Co. Ltd.,
Represented by its Divisional Officer-II (HUB)
101-A, Peramanoor Main Road, Salem.

3.Madhan

... Respondents



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to enhance the compensation awarded in the judgement and decree dated 01.02.2024 passed in M.C.O.P.No.428 of 2023, on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

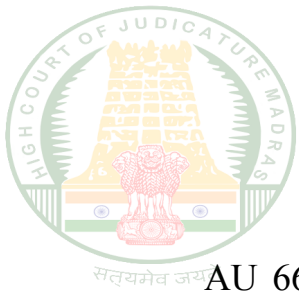
For Appellants : Mr.S.P.Yuaraj
For R2 : Mr.J.Chandran
For R1 & R3 : Dispensed with.

JUDGMENT

The appellants have filed this appeal seeking enhancement of the compensation awarded in M.C.O.P. No. 428 of 2023, on the file of the Motor Accident Claims Tribunal, Special District Court, Salem, dated 01.02.2024.

2. The brief facts of the case of the appellants/claimants are as follows:

On 12.01.2023, at about 10.30 p.m., while the deceased was riding a scooter bearing registration number TN 33 BC 9628 on his side of the Vellakoil to Muthur road, near HDFC Bank at Vellakoil Town, proceeding from south to north, a car bearing registration number TN 02



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AU 6611, driven by the 1st respondent in a rash and negligent manner from the opposite direction, dashed against the deceased. Immediately after the accident, he was taken to the Government Hospital, Kangeyam, where he was declared dead. The rash and negligent driving of the 1st respondent was the sole cause of the accident, and there was no negligence on the part of the deceased. A criminal case was registered against the 1st respondent by the Vellakoil Police in Crime No. 24/2023 under Sections 279, 337, and 304(A) IPC.

3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs. 37,98,903/- as compensation, directing the 1st and 2nd respondents to jointly pay the said amount to the appellants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimants) have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.



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5. Heard Mr. S.P. Yuvaraj, learned counsel appearing for the appellants, and Mr. J. Chandran, learned counsel appearing for the 2nd respondent.

6. The learned counsel for the appellants submitted that the deceased was a bus conductor employed by the Tamil Nadu State Transport Corporation Ltd., Tiruppur, drawing a gross salary of Rs. 36,420/-. However, the Tribunal erroneously considered only the net salary of Rs. 31,059/-. Furthermore, the deceased was aged about 48 years at the time of the accident and had 12 more years of service remaining, which was not taken into account while awarding compensation. The counsel also submitted that the amount awarded towards loss of consortium was inadequate and prayed for enhancement.

7. On the other hand, the learned counsel appearing for the 2nd respondent contended that personal allowances were deducted, and the Tribunal rightly fixed the monthly salary at Rs. 31,059/-. He further submitted that the amount awarded under the head of loss of consortium is sustainable and prayed for dismissal of the appeal as devoid of merit.

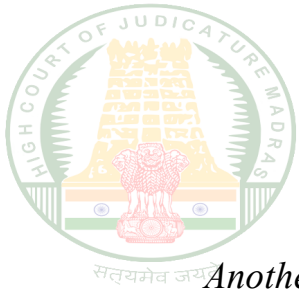


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8. On considering the submissions of both parties and on perusal of the records, it is evident that the deceased was employed as a conductor in the State Transport Corporation and was drawing a gross salary of Rs. 36,420/-, as evidenced by the salary slip marked as Ex.A7. The Tribunal noted the gross income of Rs. 36,420/- but, without assigning any reasons, took the net salary as Rs. 31,059/-. There is no mention of the personal allowances received by the deceased. Therefore, this Court is inclined to fix the monthly income of the deceased at Rs. 36,000/-. Further, the deceased had 12 more years of service, which was not considered by the Tribunal. Hence, the award passed by the Tribunal is liable to be modified.

9. As per the decision of the Hon'ble Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi and Others*, reported in 2017 (2) TN MAC 601, 30% is to be added towards future prospects. The deceased died leaving behind his legal heirs, his wife, two children, and his parents. Hence, 1/4th of the income is to be deducted towards personal expenses. The deceased was aged 48 years at the time of the accident, and as per the judgment in *Sarla Verma & Others v. Delhi Transport Corporation &*



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Another, (2009) 6 SCC 121, the appropriate multiplier is 13. Further, the accident occurred in the year 2023; therefore, the compensation towards loss of consortium is to be increased to Rs. 44,000/- per claimant, totaling Rs. 2,20,000/-. The award under the head of loss of love and affection is deleted.

10. Calculation:

- Notional Income: Rs. 36,000/-
- 30% Future Prospects: Rs. 36,000 + 10,800 = Rs. 46,800/-
- After 1/4 Deduction: Rs. 46,800 - 11,700 = Rs. 35,100/-

Loss of Dependency: Rs. 35,100 × 12 × 13 = Rs. 54,75,600/-

11. The following table sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court:

<i>Sl. No</i>	<i>Heads</i>	<i>Amount Awarded by Tribunal</i>	<i>Amount Awarded by High Court</i>
1.	Loss of Dependency	Rs. 36,33,903	Rs. 54,75,600
2.	Loss of Love and Affection	Rs. 1,00,000	Nil
3.	Loss of Consortium	Rs. 40,000	Rs. 2,20,000
4.	Funeral Expenses	Rs. 25,000	Rs. 25,000
	Total	Rs. 37,98,903	Rs. 57,20,600



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12. In the result:

- i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs. 37,98,903/- to Rs.57,20,600/-.
- iii. The appellants/claimants are directed to pay the court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after receipt of the court fee.
- iv. The 1st and 2nd respondents are jointly and severally directed to pay the enhanced compensation amount of Rs.57,20,600/- (after deducting any amount already deposited), along with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No. 428 of 2023 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem, within a period



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of eight weeks from the date of receipt or uploading of a copy of this
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order.

v. On such deposit being made by the 1st and 2nd respondents, the appellants/claimants are at liberty to withdraw the same as per the apportionment made by the Tribunal, after following due process of law.

vi. The appellants/claimants shall not be entitled to claim interest for any period of delay, if any, in filing this appeal.

05.06.2025

Index: Yes/No

Speaking/non Speaking order

Neutral Case citation: yes/no

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To

1. The Motor Accident Claims Tribunal,
Special District Court, Salem.
2. M/s. United India Insurance Co. Ltd.,
Represented by its Divisional Officer-II (HUB)
101-A, Peramanoor Main Road, Salem.
3. The Section Officer, V.R. Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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