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CMA.No.991 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 02.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.991 of 2025

1. Meenatchi
2. Sivakumar

... Appellants

Vs.

1. Vengadasalam @ Venkatachalam
2. M/s United India Insurance Co. Ltd.,
rep. by its Divisional Office-II, (HUB),
104-A, Peramanoor Main Road, Salem.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation amount made in MCOP No.218 of 2023 dated 01.02.2024 on the file of the Special District Judge, Motor Accident Claims Tribunal, Salem.

For appellants : Mr.S.P.Yuvaraj

For Respondents : Mr.J.Chandran for second respondent



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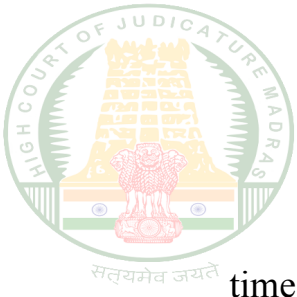
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JUDGMENT

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 the case of the claimants that their son Bharadan was riding a two wheeler on the left hand side of Rangampalayam-Anaikkalpalayam Ring Road and when he came near Ramasamy Garden from West to East, a lorry belonging to the first respondent insured with the second respondent came in a rash and negligent manner and hit against the two wheeler. As a result of accident, the son of the claimants sustained grievous injuries and died on the spot. The claimants filed a claim petition before the Tribunal seeking compensation of Rs.40,00,000/-.

3. The first respondent owner of lorry remained exparte before the Tribunal. The claim petition was resisted by the second respondent, insurer of the lorry, mainly on the ground that there was no negligence on the part of the first respondent, who had driven the vehicle at the



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time of accident. It was the case of the insurer that the deceased had driven the vehicle in a rash and negligent manner and caused the accident.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the lorry by the first respondent and fastened liability on the insurer/2nd respondent. The amount payable to the claimants was quantified at Rs.11,45,000/-. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come before this court by filing the instant appeal.

5. Both the counsel for the appellants and the second respondents have not advanced any arguments on the points of negligence and liability and hence, the facts necessary to decide those points are not considered in this appeal.

6. The learned counsel for the appellants would submit that the



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deceased was a B.Sc. Information Technology student and the Tribunal committed an error in fixing notional income only at Rs.10,000/- per month, including future prospects.

7. The learned counsel for the second respondent would submit that the claimants have not produced any documentary evidence to prove the earning capacity of the deceased, who was a student at the time of accident and hence, the Tribunal was justified in fixing notional income at Rs.10,000/- per month, including future prospects.

8. In order to prove that the deceased was a B.Sc. Information Technology student, a certificate issued by the Erode Arts and Science College was marked as Ex.P5. A perusal of Ex.P5 would indicate that the deceased joined the college on 12.07.2022 in B.Sc. (Information Technology) course and died on 12.08.2022 in the road accident. Taking into consideration the fact that the deceased was a B.Sc. I.T. student and also his potentiality to earn more, date of accident and the prevailing cost of living etc., this court is inclined to fix notional income of the deceased at Rs.19,000/-. As per the Ex.P6 Aadaar card,



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the age of the deceased was fixed as 20 years by the Tribunal and hence, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 18. Since the deceased died as a bachelor, 50% should be deducted towards personal expenses of the deceased. Accordingly, loss of dependency is fixed at Rs.28,72,800/- $(19,000 \times 1.40 \times 12 \times 18 \times 1/2)$

9. The accident had occurred on 12.08.2022, i.e., after three years from the date of delivering the judgment by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157*** (31.10.2017). Therefore, 10% enhancement should be given on the conventional heads. Accordingly, the claimants are entitled to Rs.44,000/- each towards filial consortium and a sum of Rs.16,500/- each towards loss of estate and funeral expenses. Therefore, the amount of Rs.40,000/- awarded under the head filial consortium is enhanced to 88,000/-. The compensation of Rs.25,000/- awarded under the head funeral expenses alone is modified as loss of estate and funeral expenses and the said amount is enhanced to Rs.33,000/-. $(16500 + 16500)$.



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10. 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	10,80,000	28,72,800	enhanced
2.	Loss of filial consortium	40,000	88,000	enhanced
3.	funeral expenses and Loss of estate	25,000	33,000	enhanced
	Total	11,45,000	29,93,800	enhanced by Rs.18,48,800

11. With the above modifications, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.11,45,000/- is hereby enhanced to **Rs.29,93,800/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit. The claimants are directed to pay applicable court fee on the enhanced compensation amount now determined by this court.

12. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with



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interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment.

On such deposit being made, the claimants shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

There shall be no order as to costs.

02.04.2025

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

1. The Special District Court,
Motor Accident Claims Tribunal,
Salem.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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