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C.M.A.No.3510 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 06.01.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.3510 of 2024**

1.Kuppammal  
2.Kanniappan

... Appellants

Vs.

1.B.Raman

2.The New India Insurance  
Co. reported by its  
Divisional Officer,  
No.113-A, GST Road,  
Chengalput.

3.Narasimhan Iyengar

... Respondents

**Prayer:**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 15.12.2023 in M.C.O.P.No.142 of 2012 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Kancheepuram District @ Chengalpattu.

For Appellants : Mr.M.Varadhan  
For Respondents : Mr.J.Chandran for R2



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## J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the judgment and decree passed in M.C.O.P.No.142 of 2012 dated 15.12.2023 on the file of the Motor Accidents Claims Tribunal and Chief Judicial Magistrate, Kancheepuram District @ Chengalpattu.

2.The learned counsel appearing for the appellants submitted that on 23.09.2012 at about 4.30 p.m., the deceased Muthu was proceeding in the motor cycle bearing Registration No.TN.21.AW7938 from Adavilagam towards Malayanatham Village near Meleripakkam Colony. At that time, the first respondent came in the motorcycle bearing Registration No.TN-09 AF5677 in the opposite direction in a rash and negligent manner and dashed against the deceased, due to which, the deceased lost his life.

3.The learned counsel appearing for the appellants further submitted that thereafter, the parents of the deceased Muthu/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.15 Lakhs as compensation.



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After adjudication, the Tribunal awarded a sum of Rs.11,03,000/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of realization with costs and directed the second respondent to deposit the compensation. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that in order to prove the case the claimants examined P.W.1 and P.W.2 and marked exhibits Ex.P.1 to Ex.P.14, however, the Insurance Company neither examined any witness nor marked any exhibit.

5.The learned counsel appearing for the appellants further submitted that the accident is of the year 2012 and as per the decision of the Hon'ble Apex Court in *Sarla Varma and Ors. v. Delhi Transport Corporation and Anr.* reported in 2009 (2) L.S. 29 (S.C.), a sum of Rs.12,000/- ought to have been fixed as the notional monthly income of the deceased, however, the Tribunal fixed the notional monthly income of the deceased as Rs.9,000/- and the Tribunal also did not



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award any amount for future prospects and further submitted that the compensation awarded under the other heads also are meagre.

6.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

7.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

9.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.9,72,000/- for loss of earning, Rs.10,000/- for



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transport to hospital, Rs.16,500/- for funeral expenses, Rs.16,500/- for loss of estate, Rs.88,000/- for loss of consortium and arrived at a total compensation of Rs.11,03,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

10.The accident is of the year 2012 and the deceased is a bachelor aged 21 years at the time of death. As per the decision of the Hon'ble Apex Court in *Sarla Varma and Ors. v. Delhi Transport Corporation and Anr.* reported in 2009 (2) L.S. 29 (S.C.), a sum of Rs.12,000/- ought to have been fixed as the notional monthly income of the deceased and as per the decision of the Hon'ble Apex Court reported in National Insurance Company Limited Vs. Pranay Sethi and others reported in MANU/SC/1366/2017, 40% of the monthly income has to be awarded for future prospects. Hence, this Court fix a sum of Rs.12,000/- as the notional monthly income of the deceased and award 40% of the monthly income for future prospects. The Tribunal has adopted the correct multiplier 18. Hence, the amount awarded for loss of earning works out to Rs.18,14,400/- [Rs.12,000/- X 40% = Rs.4,800/-; Rs.12,000/- + Rs.4,800/- = Rs.16,800/-; Rs.16,800/- X 1/2 = Rs.8,400/-; Rs.16,800/- - Rs.8,400/- = Rs.8,400/-; Rs.8,400/- X 12 X 18 = Rs.18,14,400/-].



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11.The amount awarded under the heads funeral expenses, loss of estate, loss of consortium, in the opinion of this Court are high and this Court is inclined to reduce the amount awarded under the said heads. Accordingly, the amount awarded for funeral expenses is reduced to Rs.15,000/- from Rs.16,500/-, the amount awarded for loss of estate is reduced to Rs.15,000/- from Rs.16,500/-, the amount awarded for loss of consortium is reduced to Rs.80,000/- from Rs.88,000/-. The amount awarded under the head transport to hospital, in the opinion of this Court is not necessary and the same is deleted.

12.Accordingly, the compensation amount is re-assessed as follows:

| <b>S.No.</b> | <b>Description</b>    | <b>Amount Awarded<br/>by the Tribunal</b> | <b>Amount Awarded<br/>by this Court</b> |
|--------------|-----------------------|-------------------------------------------|-----------------------------------------|
| 1.           | Loss of earning       | Rs. 9,72,000/-                            | Rs.18,14,400/-                          |
| 2.           | Funeral Expenses      | Rs. 16,500/-                              | Rs. 15,000/-                            |
| 3.           | Transport to Hospital | Rs. 10,000/-                              | ---                                     |
| 4.           | Loss of consortium    | Rs. 88,000/-                              | Rs. 80,000/-                            |
| 5.           | Loss of estate        | Rs. 16,500/-                              | Rs. 15,000/-                            |
|              | Total                 | Rs.11,03,000/-                            | Rs.19,24,400/-                          |



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13.The claimants are entitled to total compensation of Rs.19,24,400/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

14.The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.142 of 2012 dated 15.12.2023 on the file of the Motor Accidents Claims Tribunal and Chief Judicial Magistrate, Kancheepuram District @ Chengalpattu, is modified to the above extent.

15.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellants/ claimants are directed



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to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal and Chief Judicial Magistrate, Kancheepuram District @ Chengalpattu, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

16.The civil miscellaneous appeal is partly allowed. No costs.

**06.01.2025**

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal and  
Chief Judicial Magistrate,  
Kancheepuram District @ Chengalpattu.



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**M.DHANDAPANI,J.**  
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