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CMA No. 810 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-08-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 810 of 2024

1. M.Maharani

2. M.Gunadevi

Appellants

Vs

1. A.Elangovan

2.The Manager

Cholamandalam MS Gen.Ins.Co.Ltd. II
Floor, Shaw Wallance Building, 154,
Thambu Chetty Street, Parrys Corner,
Chennai 001

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to allow the appeal and enhance the compensation in MCOP No. 4389 of 2018 on the file of the Motor Accidents Claims Tribunal / Special District Judge II, Cuddalore.



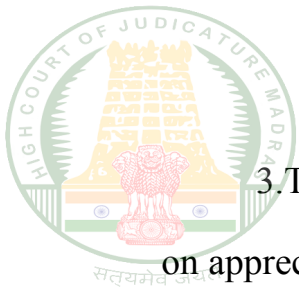
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For Appellants: Mr.Ramya V. Rao

For Respondents: Mrs.R.Sree Vidhya For R2
R1 - Notice Dispensed With**JUDGMENT**

Challenging the impugned award passed by the tribunal in MCOP.No.4389 of 2018, the appellants/petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The appellants are widowed mother and unmarried sister of deceased M.Ramadoss. The case of appellants is that when the deceased was riding a Hero Splendor pro motor cycle bearing Regn. No. TN-22 CK-0808 from Singaperumalkoil to Mathur, nearby Thirukachr Malaisivankoil, at that time, the driver of Tourister Maxi Cab bearing Regn. No. TN-19-b-2649 drove it in a rash and negligent manner overtook the motorcycle and suddenly stopped in front of deceased two wheeler without any signal and on seeing the same, the deceased tried to stop his vehicle, but inspite of it, it was dragged on and unavoidably hit behind the 1st respondent's vehicle. Due to which, the deceased sustained head injury as well as multiple grievous injuries all over the body, for which he underwent treatment in the hospital, but he died inspite of treatment. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.50,00,000/-.



3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.19,29,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	20,56,320
2.	Loss of filial consortium to 1 st claimant	44,000
3.	Funeral expenses and loss of estate	33,000
4.	Transport expenses	10,000
	Total compensation awarded (by adding Sl. Nos. 1 to 4)	21,43,320

4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The learned counsel for appellants would argue that the accident was happened in the year 2018 and the deceased had completed B.Com.Degree and working as Asst. Accountant in Ohm Bhuvaneshwari Enterprises, Chennai, thereby earned a sum of Rs.20,000/-, but without considering the same and also



without considering cost of living at that time, the tribunal had fixed the notional income as Rs.13,600/-. Hence, they prayed for enhancement of compensation.

6. The learned counsel for 2nd respondent raised objections stating that the deduction considered by the tribunal as such is sustainable. Hence, the Tribunal had rightly fixed the notional income as Rs.13,600/-, which needs no interference.

7. Heard rival submissions of both learned counsel for appellants and 2nd respondent and perused the materials available on record.

8. On seeing the facts, it reveals that the accident was happened in the year 2018 and the deceased had completed B.Com.Degree and working as Asst. Accountant in Ohm Bhuvaneswari Enterprises, Chennai, thereby earned a sum of Rs.16,000/-, to that effect, pay slip was marked under Ex.P19, however, except the house rent allowance, other allowances are sustainable one. Therefore, this Court is inclined to enhance the notional income of the deceased M.Ramadoss from Rs.13,600/- to Rs.15,000/-.

9. Furthermore, the Tribunal has granted only a sum of Rs.40,000/- under the head of 'Loss of filial consortium to 1st appellant'. However, the legal heirs of deceased are his widowed mother and unmarried sister. But, learned counsel for 2nd respondent raised objections stating that there is no proof for the fact that



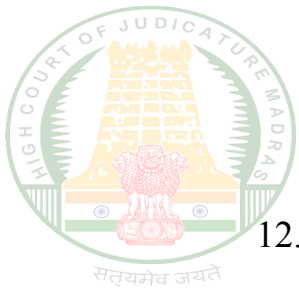
his sister is unmarried. Considering her submissions, this court is inclined to enhance compensation awarded under this head as Rs.80,000/-(Rs.40,000/- x 2).

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10. On further perusal of award, the fact reveals that the deceased sustained head injury, but there is no evidence that he was not wore helmet at the time of accident. To that effect, there is no findings rendered by the tribunal. Therefore, the 10% of contributory negligence is ordered to be deleted. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

11. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	For loss of income Rs.15,000/- (add 40% future prospects) = 15000 + 6000 = 21000 21000 x 12 x 18 (multiplier) = 45,36,000 – 1/2 = 22,68,000	20,56,320	22,68,000	enhanced
2.	Loss of consortium	40,000	80,000	enhanced
3.	Funeral expenses and loss of estate	33,000	30,000	reduced
4.	Transportation expenses	10,000	10,000	confirmed
	Total	21,43,320	23,88,000	enhanced
	Less : 10% contributory negligence	2,14,332	nil	
	Net compensation	19,29,000		



12. Accordingly, the compensation awarded by the tribunal at Rs.19,29,000/- is enhanced to Rs.23,88,000/-. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit of the enhanced compensation amount now determined by this Court, the appellants 1 and 2 are entitled to share the amount proportionately as ordered by the Tribunal and the appellants 1 and 2 are permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn.

13. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

08-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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1. Motor Accident Claims Tribunal,
Special District Court No.II,
Cuddalore.
2. Section Officer,
VR Section,
Madras High Court.



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T.V.THAMILSELVI J.

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