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CMA No. 762 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 03-07-2025**

CORAM

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**CMA No. 762 of 2024**

1. Christy Sangeetha

2. Punitharaj

Appellants

Vs

1. THANGAVEL

2.National Insurance Co.Ltd  
Namakkal Division, NO.74 A,  
Paramathy Road, Namakkal Dt, Having  
Branch office at Salem Branch II  
No.53, 2nd Floor, LRN Building,  
Saradha College Main Road, Salem Dt.

Respondents

**PRAYER:-** Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to **set aside** the judgment and decree in MCOP No.140 of 2023 dated 01.02.2024, on the file of the Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal,Salem.



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For Appellants: Mr.R.Navaneetha Krishnan

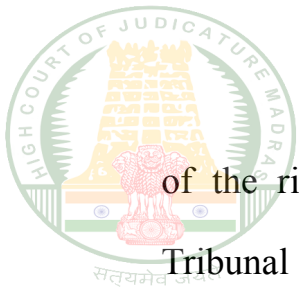
For Respondents: Ms.N.B.Sureka For R2  
R1 - Notice Dispensed With

### **JUDGMENT**

Challenging the impugned award passed by the tribunal in MCOP.No.140 of 2023, the claimants have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The claimants are father and mother of deceased Melwin Jason. The case of the claimants is that on 22.07.2022 at about 05.30 p.m. when the deceased riding a two wheeler bearing Regn. No. TN-52 V-7193 in Coimbatore-Salem Main Road, Chithode Pachapali medu along with one Bharatpriyan as a pillion rider, the driver of a lorry bearing Regn. No. TN-28 AL-0747 drove it in a rash and negligent manner without any signal or sound in the same direction, dashed the petitioner's two wheeler and caused an accident. Due to which, the deceased Melwin Jason sustained grievous injuries and died on the spot. 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

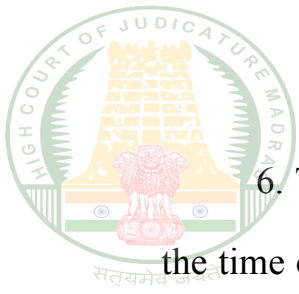


of the rider of the 1<sup>st</sup> respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.11,45,000/- under various heads as follows:

| S.No | Compensation awarded under the head                                       | Amount (in Rs.)  |
|------|---------------------------------------------------------------------------|------------------|
| 1.   | Loss of income<br>(Rs.10000/- x 12 x 18 = 21,60,000<br>– 1/2 (10,80,000)) | 10,80,000        |
| 2.   | Loss of love and affection<br>(20,000 x 2)                                | 40,000           |
| 3.   | Funeral expenses                                                          | 25,000           |
|      | <b>Total</b>                                                              | <b>11,45,000</b> |

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

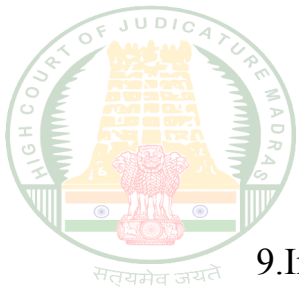
5. The learned counsel for appellant argues that the tribunal failed to see the fact that the deceased is aged about 20 years and studying 3<sup>rd</sup> year Mechanical Engineering in Diploma and in fact, he was also selected in a campus recruitment drive and the tribunal has awarded lesser compensation towards monthly income and that too the accident was happened in the year 2022. Hence, he prayed to enhance the compensation awarded by the tribunal.



6. The learned counsel for 2<sup>nd</sup> respondent raised objections stating that at the time of accident, he was only a III year student of studying D.M.E.. Hence, the tribunal has rightly fixed the income of the petitioner, which needs no interference of this court.

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

8. On perusal of records, it reveals that at the time of accident, deceased was aged about 20 years and he sustained grievous injury in the accident and died on the spot. The deceased was a III year student studying D.M.E. and the accident was happened in the year 2022. Considering that as well as the cost of living at that time, this Court is inclined to enhance the notional income of the deceased from Rs.10000/- to Rs.16000/- and 40% of future prospects can be arrived. Furthermore, the Tribunal has granted only a sum of Rs.40,000/- under the head of 'Loss of love and affection'. This is on the lower side and hence, each of the claimant is entitled for a sum of Rs.40,000/- under this head. Accordingly, the total compensation under this head is fixed at Rs.80,000/- (Rs.40,000/- x 2). The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.



9. In the light of the above discussion, the compensation awarded by the tribunal is enhanced 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<br>Rs.16,000/- (add 40% future prospects)<br>= 16000 + 6400 = 22400<br>22400 x 12 x 18 (multiplier) = 48,38,400 - 1/2 = 24,19,200 | 10,80,000                               | 24,19,200        | enhanced                               |
| 2.   | Loss of love and affection<br>(Rs.40000 x 2)                                                                                                         | 40,000                                  | 80,000           | enhanced                               |
| 3.   | Funeral expenses                                                                                                                                     | 25,000                                  | 25,000           | confirmed                              |
|      | <b>Total</b>                                                                                                                                         | <b>11,45,000</b>                        | <b>25,24,200</b> |                                        |

10. Accordingly, the compensation awarded by the tribunal at Rs.11,45,000/- is enhanced to Rs.25,24,200/-. 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 respondent Transport Corporation 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.

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11. 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 to 3 are permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn.

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

**03-07-2025**

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

rpp

To

1. Special District Court, Motor Accident Claims Tribunal, Salem.

2. Section Officer, VR Section, Madras High Court.



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**T.V.THAMILSELVI J.**

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