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CMA.No.860 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.860 of 2025

1. Selvi
2. Dhanasekaran

... Appellants

Vs.

1. A.Sudhakar
2. The Manager,
The National Insurance Co. Ltd.,
T.P.Cell No.66, 1st floor, Greams Road,
Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the award made in MCOP No.237 of 2024 dated 17.12.2024 on the file of the VI Court, Motor Accident Claims Tribunal, Court of Small Cause, Chennai.

For appellants : Mr.D.Poovannan

For Respondents : Mr.J.Chandran for second respondent



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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 not in dispute that the son of the appellants/claimants died in a road accident that had occurred on 07.09.2023. It was the case of the claimants that the deceased was proceeding from Tindivanam to Chennai at GST Road and when he came near Global Company, Karunguzhi, a tanker lorry belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the two wheeler of the deceased. As a result of accident, the deceased sustained grievous injuries and died on the way to hospital. Hence, the claimants filed a claim petition seeking compensation of Rs.45,00,000/-.

3. The claim petition was resisted by the second respondent/ insurance company on the ground that the accident had occurred only due to the negligence on the part of the deceased.



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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 driver of the lorry belonging to the first respondent and insured with the second respondent. The compensation payable to the claimants was quantified at Rs.27,93,120/-. Not satisfied with the quantum of compensation, the claimants have filed the present appeal.

5. The learned counsel for the appellants/claimants submits that the deceased was aged about 20 years and the notional income fixed by the Tribunal at Rs.17,600/- is very much on lower side. Therefore, he seeks enhancement of compensation under the head loss of dependency.

6. The learned counsel for the second respondent/ Insurance company would submit that the claimants have not produced any documentary evidence to prove the avocation and income of the deceased and hence, the Tribunal was justified in fixing notional income of the deceased at Rs.17,600/-. Per month.



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7. It is stated by the claimants in the claim petition that the deceased was a machine operator and was earning a sum of Rs.20,000/- per month at the time of accident. However, to substantiate the said plea, they have not produced any documentary evidence. Therefore, taking into consideration the date of accident and the prevailing cost of living, this court feels that it would be appropriate to fix a sum of Rs.18,000/- as notional income of the deceased. As per Ex.P2 postmortem certificate, the Tribunal fixed the age of the deceased as 20 years. Therefore, the claimants are entitled to 40% enhancement towards future prospects. The proper multiplier to be adopted in this case is 18. Since the deceased had died as a bachelor, 50% shall be deducted towards his personal expenses. Therefore, the claimants are entitled to a sum of Rs.27,21,600/- $(18000 \times 1.40 \times 12 \times 18 \times 1/2)$ towards loss of dependency.

8. The compensation awarded by the Tribunal under the heads loss of filial consortium to the claimants 1 and 2, loss of Estate and Funeral expenses are in accordance with the law settled by the Apex Court in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157* and hence, they are confirmed.



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9. Accordingly, the compensation awarded by the Tribunal is modified 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	26,61,120	27,21,600	enhanced
2.	Loss of consortium	96,000	96,000	confirmed
3.	Loss of estate	18,000	18,000	confirmed
4.	Funeral expenses	18,000	18,000	confirmed
	Total	27,93,120	28,53,600	enhanced by 60,480

10. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.27,93,120/- is hereby enhanced to **Rs.28,53,600** together with interest at 7.5% per annum (excluding the default period, if any) from the date of claim petition till the date of deposit.

11. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a



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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.

27.03.2025

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

1. The VI Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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