



C.M.A.No.2306 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

C.M.A.No.2306 of 2023

1. Pazhaniyammal
2. Dhineshkumar (Minor)
3. Yokesh (Minor)
4. Rasathi
5. Kannan

.. Appellants

Vs.

1. A. Suresh
2. National Insurance Company Limited
Third Party Cell HUB
No.66, Greams Road, Anna Salai
Chennai – 600 006.

.. Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.11.2022 made in M.A.C.T.O.P.No.2071/2020 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For the Appellants : Mr.F. Terry Chella Raja

For the Respondents : Mr.P.Sankaranarayanan
for R2

No Appearance for R1



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JUDGMENT

(Judgment of the Court was made by R.SURESH KUMAR, J.)

The present civil miscellaneous appeal is filed against the award passed by the Motor Accident Claims Tribunal, Chennai, in M.A.C.T.O.P.No.2071 of 2020 dated 22.11.2022.

2. Due to the road accident that occurred on 18.03.2020, one *Sivaraj*, who was the pillion rider of a motorcycle bearing Registration No. TN 32 AD 0338 was hit from behind by a lorry bearing Registration No. TN 54 L 7792. Result of the said accident, the said *Sivaraj* sustained multiple injuries along with the rider of the motorcycle and the said *Sivaraj*, though was admitted in the Thirukovilur Government Hospital, subsequently, in the Mundiambakkam Government Hospital and was thereafter shifted to the Rajiv Gandhi Government General Hospital, as the treatment did not yield a desired result, died on 20.03.2020.

3. At the time of accident, the deceased *Sivaraj* was 34 years old and it is claimed to have been earning a sum of Rs.30,000/- per month while working as a Coolie, that is freelancer. Therefore, on behalf of the deceased, the parents, wife and children of the deceased *Sivaraj*, joined together and filed the said MCOP, seeking



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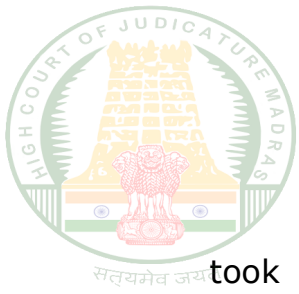
compensation of Rs.78,00,000/-.

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4. The Tribunal, having considered the evidences adused before it, has ultimately concluded that the rash and negligence is to be fixed on the lorry driver, resultantly, the respondent National Insurance Company Limited, which is the insurer of the lorry, has been fixed the responsibility to pay the compensation, which has been calculated totally at Rs.18,42,800/-. In order to arrive at such calculation, the notional monthly earning was fixed at Rs.8,000/- with addition of 40% future prospects, i.e., Rs.3200/- , altogether, Rs.11,200/- and therefore, such award has been passed by the Tribunal. Against the said award, for seeking enhancement, this appeal has been moved by the claimants.

5. *Mr.F. Terry Chella Raja*, learned counsel for the appellant claimants would contend that the monthly income fixed by the Tribunal at Rs.8,000/- per month for the deceased is far low. The reason being that, even as per the Minimum Wages Act, 1948, and as per the prescription that has been made by a Division Bench of this Court in the case of ***Andal and Ors. vs. Avinav Kannan and Anr.***¹, it should have been fixed at Rs.10,000/-, as the accident

¹ C.M.A.No.2330 of 2017; Dated: 09.10.2018.



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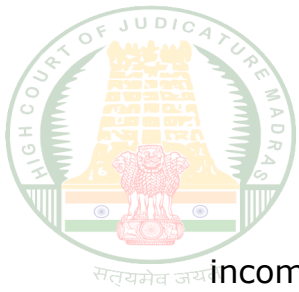
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took place on 18.03.2020, which is the only area where the claimants have been aggrieved over the award of the Tribunal, which is impugned herein, he contended.

6. On the other hand, *Mr.P.Sankaranarayanan*, learned counsel for the second respondent Insurance Company would submit that there is absolutely no proof as to what was the earning of the deceased and therefore, notional fixation has been made by the Tribunal, which has been fixed at Rs.8,000/- per month. Therefore, such fixation does not require any interference at the hands of this Court, he contended.

7. Since there are no other arguments raised in this appeal, we have to delve into the issue as to whether the notional fixation of the earning of the deceased at Rs.8,000/- per month by the Tribunal through the impugned order is justifiable or not and whether it requires any enhancement.

8. In this context, as per the fixation that has been made in the ***Andal*** case referred to *supra*, year-wise notional income has been provided by the Division Bench of this Court. Accordingly, for the year 2020-21, a sum of Rs.15,167/- could be fixed as a notional



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income.
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9. When that being so, the fixation of a sum of Rs.8,000/- per month as notional income by the Tribunal for the deceased *Sivaraj* is far low, as has been stated by the learned counsel appearing on behalf of the appellants, since the appellants are the dependents of the deceased, that is the parents, wife and two children, such a very lower sum, fixed as notional income, necessarily has to be interfered by this Court as per the guidelines given by the Division Bench of this Court in **Andal** case referred to *supra* based on cost index.

10. As per the guidelines given in the **Andal** case referred to *supra*, we feel that the notional monthly income of the deceased *Sivaraj* may be fixed at Rs.16,000/-, since the family of the deceased consists of five members, as stated *supra*, certainly, reasonable sum has to be paid as a compensation. Therefore, by calculating the cost index and also taking into account of the dependency, we deem it appropriate to fix a sum of Rs.16,000/- as the notional income per month for the deceased.

11. If the notional income is fixed at Rs.16,000/-, the calculation would be as follows:-



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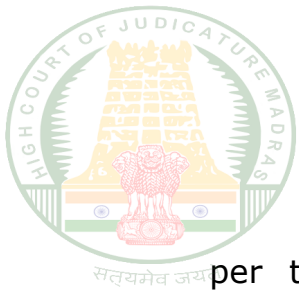
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Monthly Income	-	Rs.16,000/-
Addition of 40% future prospects	-	Rs.22,400/-
Towards loss of income/dependency [Rs.22,400/- (x) 12 (x) 16]	-	Rs.43,00,800/-
Towards loss of personal expenses [Rs.43,00,800/- (/) 4]	-	Rs.10,75,200/-
Total loss of income and future prospects	-	Rs.32,25,600/-
Loss of estate	-	Rs.15,000/-
Loss of Consortium	-	Rs.2,00,000/-
Towards funeral expenses	-	Rs.15,000/-
Total	-	Rs.34,55,600/-

Therefore, Rs.34,55,600/- shall be the compensation payable to the victim's family, that is the appellants herein, by the respondent Insurance Company.

12. Hence, the impugned award is modified to the aforesaid extent and the modified/enhanced compensation of Rs.34,55,600/- shall be paid by the respondent Insurance Company to the appellants with interest at the rate of 7.5% as directed by the Tribunal.

13. It is submitted by the learned counsel appearing for the second respondent/Insurance Company that the award amount, as



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per the impugned award, has been deposited. Therefore, the remaining amount as per the present enhanced award shall be deposited by the respondent Insurance Company in the Lower court within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, it is open to the appellant claimants to withdraw the said amount after retaining the shares of the minors as per the proportionate withdrawal termed by the Tribunal in the impugned order. The enhanced amount also would carry 7.5% interest till the date of deposit.

14. With these modifications and enhancement of the impugned award, the civil miscellaneous appeal stands allowed in part and accordingly, stands disposed. There shall be no order as to costs.

(R.S.K., J.) (A.D.M.C., J)
27.02.2025

Neutral Citation:Yes/No

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R. SURESH KUMAR, J.
AND
A.D.MARIA CLETE, J.
(drm)

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