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CMA.No.498 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 21.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.498 of 2025

1. Thiresa
2. Thavith Raj
3. Vimal Raj

... Appellants

Vs.

1. Parvathy
2. The New India Assurance Co. Ltd.,
TP Claim Hub, Bombay Mutual Buildings,
6th floor, N.S.C. Bose Road,
Chennai 600 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to allow the appeal and enhance the compensation awarded in MCOP No.2605 of 2018 dated 03.10.2023 on the file of the Special Judge No.II, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.



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For appellants : Ms.Ramya V. Rao

For Respondents : Mr.B.Cheran for first respondent

Mr.J.Chandran for second respondent

JUDGMENT

Not satisfied with the quantum of compensation awarded by Tribunal, the claimants have come before this court by filing the present appeal.

2. It is not in dispute that the first appellant is the wife and the appellants 2 and 3 are the sons of the deceased, namely Jeeva @ Jeevaraj and he died in a road accident involving ambulance owned by the first respondent and insured with the second respondent. The claimants laid a claim petition before the Tribunal seeking compensation of Rs.40,00,000/-. Based on the evidence available on record, the Tribunal fixed the negligence on the part of the driver of the first respondent and awarded a compensation of Rs.14,50,000/-. Not satisfied with the quantum of compensation, the claimants have come before this Court.



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3. Though the name of the counsel for the first respondent is printed in the cause list, none appeared on behalf of the first respondent.

4. Heard the learned counsel for the appellants and the learned counsel for the second respondent/insurance company.

5. Both the counsel for the appellants and the second respondent have not advanced any arguments on the question of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

6. The learned counsel for the appellants would submit that the deceased was employed as a painter at the relevant point of time and he was earning a sum of Rs.20,000/- per month, however, the Tribunal fixed notional income of the deceased only at Rs.10,000/- per month and the same is very much on lower side.



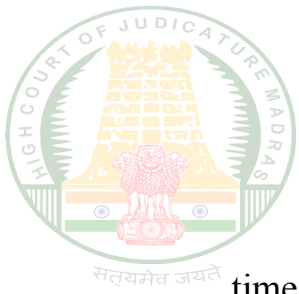
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7. The learned counsel for the second respondent/ insurance company would submit that the claimants have not produced any documents to prove the income of the deceased and hence, the Tribunal was justified in fixing notional income of the deceased at Rs.10,000/-.

8. Admittedly, the accident had taken place on 11.10.2017. In the claim petition, the claimants have stated that the deceased was employed as a painter and he was earning a sum of Rs.20,000/- per month. However, the claimants have not produced any document to substantiate the avocation and income of the deceased. Even if there is no documentary evidence to prove the income of the deceased, taking into consideration the year of accident, this court can fix notional income. In the case on hand, the accident had occurred in the year 2017. Therefore taking into consideration the date of accident and cost of living, this court feels that it would be appropriate to fix notional income of the deceased at Rs.15,000/-.

9. As per Ex.P2 postmortem certificate and Ex.P3 death certificate, the Tribunal fixed the age of deceased as 47 years at the



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time of accident and the same was not disputed by the second respondent. As per the law laid down by the Honourable Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157(Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017)*, 25% of income should be added towards future prospects. Proper multiplier relevant to the age of the deceased is '13'. At the time of accident, three persons were depending on the income of the deceased and hence, 1/3 should be deducted towards his personal expenses. Accordingly, loss of dependency is fixed at Rs.19,50,000/- [18,750 (15,000+ 3750) x 12 x 13 x 2/3].

10. The compensation awarded by the Tribunal under the heads Loss of consortium, Loss of Estate, Funeral Expenses are in accordance with the law laid down by the Hon'ble Supreme Court in *Pranay Sethi case* stated supra and hence, the same are confirmed.

11. Accordingly, the revised compensation awarded by this Court is tabulated as under:



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	13,00,000	19,50,000	enhanced
2.	Loss of Consortium	1,20,000	1,20,000	confirmed
3.	Loss of Estate	15,000	15,000	confirmed
4.	Funeral expenses	15,000	15,000	confirmed
5.	Total	14,50,000	21,00,000	enhanced by 6,50,000

12. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.14,50,000/- is hereby enhanced to **Rs.21,00,000/-** together with interest at 7.5% per annum (excluding the default period of 55 days, as per order in CMP No.19783 of 2024) from the date of petition till the date of deposit.

13. 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 period of **four weeks** from the date of receipt of a copy of this judgment.



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14. The Tribunal fixed the share of the **first claimant/wife** as Rs.8,50,000/- and the same is **enhanced to Rs.12,60,000** /-. Like wise the share of second and third claimants/sons are **enhanced** from Rs.3,00,000/- each **to Rs.4,20,000/-**

15. The appellants/ claimants shall be permitted to withdraw their proportionate share from the total 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.

21.02.2025

Index:Yes/No
Internet:Yes/No
mst

To

1. The Special Sub Judge-II
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.



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S.SOUNTHAR, J.

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