



C.M.A.No.872 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.872 of 2023

1.Sampoornam

2.R.Periyasamy

... Appellants

VS.

1.C.Raju

2.United India Insurance Co., Ltd.,
Divisional Office, HUB,
Door No.140A, Ranga Building,
Paramanur Main Road,
Salem Taluk and District.

... Respondents

(The First Respondent remained ex-parte before the Lower Court. Hence, service of notice to him may be dispensed with)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, to set aside the Fair Order dated 01.06.2022 passed in M.C.O.P.No.1045 of 2020 on the file of the Special District Judge, Motor Accident Claim Tribunal, Salem and to enhance the quantum of compensation as claimed by the appellants by allowing the above Civil Miscellaneous Appeal.



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For Appellants : Mr.P.Jagadeesan

For R2 : Mr.D.Bhaskaran

For R1 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Special District Judge, Motor Accident Claim Tribunal in M.C.O.P.No.1045 of 2020, dated 01.06.2022, the appellants/claimants have come by way of this appeal.

2. It is not in dispute that the son of the appellants/claimants namely Satheeshkumar died in a road accident that had occurred on 08.08.2020. It was the case of the claimants that the deceased was driving a two wheeler in Namakkal-Coimbatore Main Road proceeding from north - south on the left hand side of the road. The TATA Van belonging to the 1st respondent insured with the 2nd respondent-Insurance Company came in the opposite direction in a rash and negligent manner and dashed against the two wheeler of the deceased. As a result of which, the deceased sustained grievous



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injuries and died in hospital. Therefore, a claim petition was filed by the claimants seeking compensation of Rs.70,00,000/-.

3. The 1st respondent remained *exparte* before the Tribunal and the claim petition was resisted by the 2nd respondent-Insurance Company by denying the negligence on the part of the driver of the 1st respondent's vehicle. It was the case of the Insurance Company that accident had occurred only due to the negligence on the part of the deceased.

4. Before the Tribunal, 1st claimant was examined as PW.1 and yet another witness was examined as PW.2. On behalf of the appellants/claimants, 19 documents were marked as Exs.P1 to P19. On behalf of the respondents, no one was examined and no document was marked. The copy of Aadhaar Card of PW.2 was marked as Ex.X1.

5. The Tribunal based on the evidence available on record, came to the conclusion that the negligence was on the part of the driver of the 1st respondent's vehicle and the Tribunal quantified the amount of compensation at Rs.12,17,000/-. Not satisfied with the quantum of



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compensation fixed by the Tribunal, the claimants have come before this

6. Both the learned counsel appearing for the appellants/claimants as well as learned counsel appearing for the 2nd respondent-Insurance Company have not advanced any arguments on the question of negligence and liability. Therefore, facts necessary to decide those questions are not discussed in this judgment.

7. The learned counsel appearing for the appellants/claimants would submit that the claimants produced Ex.P9-Salary Certificate mentioning the salary of the deceased at Rs.14,386/- per month and the same was rejected by the Tribunal without any justifiable reason and the Tribunal fixed notional income only at Rs.12,000/- per month that too without considering future prospects. Therefore, according to the learned counsel, the compensation awarded by the Tribunal requires enhancement.

8. The learned counsel appearing for the 2nd respondent/Insurance Company would submit that though claimants produced salary certificate of



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the deceased, which was marked as Ex.P9, the employer or author of the certificate was not examined by the claimants and accordingly, the Tribunal was justified in rejecting the same. The learned counsel further submits that the claimants have not produced any acceptable documents to prove the income of the deceased and hence, the Tribunal was justified in fixing the notional income at Rs.12,000/- per month.

9. In the claim petition, it was pleaded by the claimants that the deceased was B.E. Mechanical Engineering graduate, employed in L&T Company, Coimbatore, drawing a salary of Rs.15,857/- per month. The Salary Certificate issued by the employer of the deceased namely Royal Associates was marked as Ex.P9. A perusal of the same would indicate that the place of work was mentioned as 'L&T VALVES COIMBATORE. The Tribunal rejected the Ex.P9 on the ground that the author of the document was not examined. Ex.P9 is a computer generated salary certificate issued with seal of the Contractor under whom the deceased was employed and it also contains PF code. The gross salary of the deceased including DA is mentioned as Rs.15,857/-.



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WEB COPY 10. Therefore, the Tribunal is not justified in rejecting the claim. In the absence of any evidence to prove the income of the deceased, this Court can fix the notional income by taking into consideration the date of accident. In the case on hand, the accident had occurred in the year 2020. The gross salary of the deceased mentioned in Ex.P9 appeared to be a reasonable amount considering the date of accident and also his educational qualification. Therefore, this Court proceeds to take the gross amount mentioned in salary certificate after deducting professional tax of Rs.215/- ($\text{Rs.15857} - 215 = \text{Rs.15,642/-}$). Therefore, this Court fixes the salary of the deceased at Rs.15,642/-. In that case, the claimants are entitled to Rs.22,33,680/- towards loss of dependency ($\text{Rs.15,642} \times 1.4 \times 12 \times 17 \times 1/2 = \text{Rs.22,33,677.60}$ rounded to Rs.22,33,680/-). Since in the Post Mortem Certificate the age of deceased was mentioned as 27, this Court applies the multiplier of 17 instead of 16 applied by the Tribunal.

11. In addition to the said amount, the claimants are entitled to Rs.40,000/- each towards parental consortium and Rs.30,000/- towards funeral expenses and loss of estate. In all the claimants are entitled to

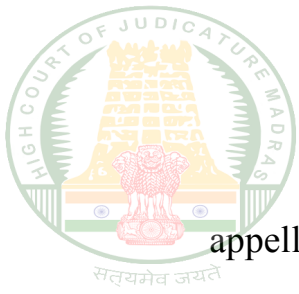


Rs.23,43,680/-. Accordingly, the award passed by the Tribunal is modified

as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Income	Rs.11,52,000/-	Rs.22,33,680/-	Enhanced
2.	Loss of love and affection	Rs.40,000/-	Rs.80,000/-	Enhanced
3.	Funeral Expenses + Loss of Estate	Rs.25,000/-	Rs.30,000/-	Enhanced
Total		Rs.12,17,000/-	Rs.23,43,680/-	Rs.11,26,680/- (Enhanced)

12. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.23,43,680/- from Rs.12,17,000/-. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.23,43,680/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.1045 of 2020 on the file of the Special District Judge, Motor Accident Claim Tribunal, Salem, within a period of four weeks from the date of receipt of copy of this judgment. On such deposit, the



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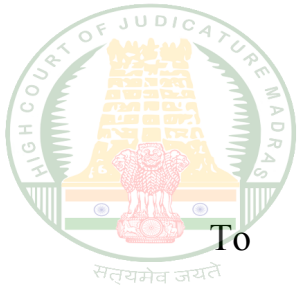
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appellants/claimants are entitled to withdraw the award amount by making formal application. The appellants/claimants are directed to pay applicable additional court fee.

13. With the above direction, the Civil Miscellaneous Appeal is allowed. No costs.

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Index :Yes / No
Speaking order :Yes / No
Neutral Citation :Yes / No
dm



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To

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- 1.The Special District Judge,
Motor Accident Claim Tribunal, Salem.
- 2.United India Insurance Co., Ltd.,
Divisional Office, HUB,
Door No.140A, Ranga Building,
Paramanur Main Road,
Salem Taluk and District.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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