



WEB COPY



CMA.No.1140 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 22.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1140 of 2025

1. Ramasamy
2. Valliyammal

... Appellants

Vs.

1. P.Gowsalya
2. Shriram General Ins. Co. Ltd.,
City Centre Complex, 2nd floor,
No.66, Thirumalai Pillai Road,
T.Nagar, Chennai-17.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in MCOP No.516 of 2021 dated 05.09.2024 on the file of the Chief Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For appellants : Ms.Ramya V.Rao

For Respondents : Ms.V.Pushpa for 2nd respondent



CMA.No.1140 of 2025

JUDGMENT

WEB COPY

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 the case of the claimants that their son Periyasamy died in a road accident that had occurred on 02.12.2020. According to them, the deceased was travelling as a passenger in an Auto from Periyasamy Koil to Muthukapatti Road and when he was nearing Puthukombai Milk Society, the driver of the auto had driven the vehicle in a rash and negligent manner and lost his control and hence, the auto got capsized. As a result of accident, the son of the claimants sustained grievous injuries and died on the spot. Therefore, the claimants filed a claim petition seeking compensation of Rs.49,00,000/-.

3. The first respondent owner of the auto remained exparte before the Tribunal and the claim petition was opposed by the insurer of the offending vehicle by denying the manner of accident as described in the claim petition. The Tribunal, based on the evidence available on



CMA.No.1140 of 2025

WEB COPY

record, came to the conclusion that the accident had occurred due to the negligence on the part of the driver of the auto, insured with the second respondent and quantified the compensation payable to the claimants at Rs.22,62,000/-. Not satisfied with the quantum of compensation, the claimants have filed the present appeal.

4. The learned counsel for the appellants/claimants submits that the Tribunal fixed notional income of the deceased at Rs.15,000/- per month, which is very much on lower side and hence, it requires enhancement. He further submits that the Tribunal committed an error in not awarding 10% enhancement on the amount awarded under the conventional heads, by taking into consideration the date of accident.

5. 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 at Rs.15,000/- per month.



CMA.No.1140 of 2025

WEB COPY

6. In the claim petition, it was stated by the claimants that the deceased was a Labourer and was earning a sum of Rs.30,000/- per month. In order to prove the income of the deceased, the claimants have not produced any documentary evidence. If there is no documentary evidence to prove the avocation and income of the deceased, considering the facts and circumstances of case and also the year of accident, this court can fix notional income. In the case on hand, the accident had taken place on 02.12.2020 and hence taking into consideration the prevailing cost of living, this court proceeds to fix notional income of the deceased at Rs.16,500/- per month. As per Ex.P16, Transfer Certificate issued to the deceased, the Tribunal fixed the age of the deceased at 26 years. Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 17. At the time of accident, the deceased was a bachelor and hence, 50% shall be deducted towards his personal expenses. Accordingly, loss of dependency is fixed at Rs. 23,56,200/- $(16,500 \times 1.4 \times 12 \times 17 \times \frac{1}{2})$.



CMA.No.1140 of 2025

WEB COPY

7. As per the law settled by the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157, dated 31.10.2017***, 10% enhancement shall be given once in three years in respect of the amount awarded under the conventional heads, for the accident that had taken place after the date of delivery of judgment on 31.10.2017 in ***Pranay Sethi Case***. In the case on hand, the accident had occurred on 02.12.2020. Hence, the amount awarded under the head loss of filial consortium is enhanced to Rs.88,000/- and the compensation awarded under the heads loss of estate and funeral expenses are enhanced to Rs.16,500/- each.

8. The amount awarded by the Tribunal towards transportation charges including damages to personal belongings is set aside, as it is covered by the compensation under the head loss of estate.

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

Sl.	Description	Amount	Amount	Award
-----	-------------	--------	--------	-------



No		awarded by Tribunal (Rs)	awarded by this Court (Rs)	confirmed or enhanced or granted
1.	Loss of Dependency	21,42,000	23,56,200	enhanced
2.	Loss of filial consortium	80,000	88,000	enhanced
3.	Loss of estate	15,000	16,500	enhanced
4.	Funeral expenses	15,000	16,500	enhanced
5.	Transportation charges including damages to personal belongings	10,000	--	set aside
	Total	22,62,000	24,77,200	enhanced by 2,15,200

10. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.22,62,000/- is hereby enhanced to **Rs.24,77,200/-** together with interest at 7.5% per annum 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 to the credit of MCOP No.516 of 2021 on the file of the Chief Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai, along with interest



CMA.No.1140 of 2025

WEB COPY

and costs, less the amount already deposited, if any, within a 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 their respective compensation amount, in the same proportion, as per the apportionment made by the Tribunal, 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.

22.04.2025

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

To

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



WEB COPY



CMA.No.1140 of 2025

S.SOUNTCHAR, J.

mst

CMA No.1140 of 2025

22.04.2025