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CMA No. 2067 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2067 of 2023

AND

CMP NO. 20142 OF 2023

1. Reliance General Insurance
Company Ltd
Sakthi Supermarket, 3rd Floor, 408,
Perundurai Road, Erode - 638 011.

Appellant(s)

Vs

1. CHINNAPONNU
W/o. Subramani, D.No. 112, Masiyan
Street, Kattoor, Avani Porur
Keelmugam, Edappadi Taluk, salem
district.

2.Subramani
S/o. Subramani, D.No. 112, Masiyan
Street, Kattoor, Avani Porur
Keelmugam, Edappadi Taluk, salem
district.

3.T.Prabui
S/o. Thangaraj, No. 1-726-1492, KPL
Nagar, Kadachanallur - 638 008,
Komarapalayam Taluk, Namakkal



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Respondent(s)

CMA No. 2067 of 2023

PRAYER

To set aside the Judgement and Decree Dated 22.12.2022 passed in MCOP.No. 297 of 2017 on the file of MACT Special District Judge, Erode.

CMA No. 2067 of 2023

For Appellant(s): Mr.P.Suresh Srinivasan

For Respondent(s): Mr.S.P.Yuaraj For R1 And R2 R3
- Unclaimed

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to set aside the Judgement and Decree Dated 22.12.2022 passed in MCOP.No. 297 of 2017 on the file of MACT Special District Judge, Erode.

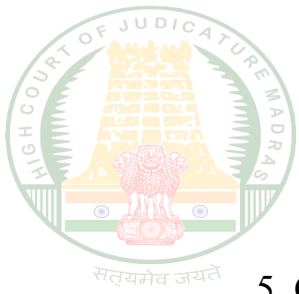
2. On 07.02.2017 at about 08.15 hours, the deceased Vijayakumar was riding his two wheeler bearing registration No. TN 52 K 4504 in Veppadai -Sangagiri main road at the opposite to the Veppadai Velathal Mill, the motor cycle bearing registration No. TN 34 Y 4906 driven in a rash and negligent manner dashed against the deceased Vijayakumar due to which the deceased



Vijayakumar died on spot. Thereafter, the claimants filed the petition before the tribunal claiming compensation. The second respondent contested the case by filing counter. After considering the oral and documentary evidence, the tribunal awarded compensation of Rs.14,43,300/-. Challenging the quantum of compensation the appellant/Insurance company filed this appeal.

3. The learned counsel for the appellant submits that on the date of the accident the deceased himself invented the accident, even the final report says that that the accident occurred due to the motorcycle bearing registration No. TN 52 K 4504 driven by the deceased hence the tribunal ought to have fixed 50% contributory negligence on the part of the deceased in stead it fixed 25% contributory negligence which is erroneous and liable to be set aside.

4. The learned counsel for the claimants submit that on the date of the accident, the rider of opposite vehicle driven the motorcycle in a rash and negligent manner dashed against the deceased due to which he died on the spot. Therefore, the tribunal has rightly fixed 25% contributory negligence on the part of the deceased which needs no interference. Hence he prays to dismiss this appeal.



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5. Considering the facts of the case the accident was happened in the year 2017 at that time the deceased was aged about 28 years, who driven the two wheeler in the Veppadai -Sangagiri main road when he was travelling nearer to the Veppadai Velathal Mill, the motor cycle bearing registration No. TN 34 Y 4906 insured with the appellant herein driven in a rash and negligent manner dashed against the deceased Vijayakumar due to which the deceased Vijayakumar died on spot. According to the final report deceased at the time of the accident the deceased came from the opposite direction due to which the accident was happened therefore he invented the accident hence tribunal has fixed 25% contributory negligence on the part of the deceased so also the driver of the vehicle bearing registration No. TN 34 Y 4906 has driven the motorcycle in a rash and negligent manner at the time of the accident and the same was rightly appreciated by the tribunal which needs no interference. However, the 25% contributory negligence fixed by the tribunal is excessive. Hence, this Court is inclined to fix 20% contributory negligence upon the deceased.

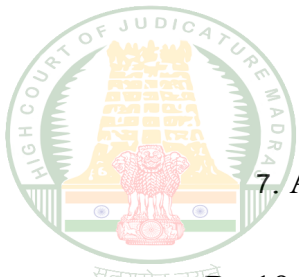


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6. Further, the learned counsel for the first respondent submits that the income of the deceased was not properly fixed by the tribunal hence he prays to enhance the compensation. The learned counsel for the appellant submits that to enhance the compensation the first respondent has to file the separate appeal or cross objection hence, he raised objection to enhance the compensation. As per Order 41 Rule 33 CPC this Court is empowered to enhance the compensation.

Further, this Court is inclined to enhance notional income of the deceased from Rs.12,000/- to Rs.15,000/-. Accordingly, the claimant is entitled to Rs.22,68,000/-(15,000+6,000x12x18x1/2) under the head of loss of dependency. Except above modification, award passed by the tribunal in other heads remains unchanged.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of income/dependency	Rs.18,14,400/-	Rs.22,68,000/-
2.	Loss of estate	Rs.15,000/-	Rs.15,000/-
3.	Loss of consortium	Rs.80,000/-	Rs.80,000/-
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-
5.	Transportation charges	Nil	Nil
	Total	Rs.19,24,400/-	Rs.23,78,000/-



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7. After deduction 20% contributory negligence the claimants are entitled to Rs.19,02,400/-. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to **Rs.19,02,400/-**. The 2nd respondent is directed to deposit the said amount - together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP No. 297 of 2017, on the file of the MACT Special District Judge, Erode, within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the appellant/claimant is permitted to withdraw the award amount by making formal application before the Tribunal. The respondent may deduct the amount, if any excessive amount has already been deposited before the tribunal. In so far as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimant(s).

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

18-07-2025

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To

1. The Section Officer, V.R Section, High Court, Madras.
2. The MACT Special District Judge, Erode.



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T.V.THAMILSELVI J.
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