



CMA.No.1232 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1232 of 2025

1.Kalaiselvi

2.Sakthivel

... Appellants

vs.

1.Jayarad

2.The Manager,

M/s. United India Insurance Company Limited,

No.134, Greams Road,

Anna Salai, Chennai-600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against Award dated 28.07.2023 passed in M.A.C.T.O.P.No.7288 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Judge II, Court of Small Causes, Chennai.

For Appellants : Mr.G.Dinesh

For R2 : M/s.Rathna Thara

For R1 : Notice Dispensed with



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J U D G M E N T

The appellants have filed this appeal to enhance the compensation award passed in M.A.C.T.O.P.No.7288 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Judge II, Court of Small Causes, Chennai, dated 28.07.2023.

2. The brief case of the appellants / claimants is as follows :

On 08.06.2015 at about 16.00 hours, while the deceased was about to cross from the Eastern side to the Western side of the 100 ft.road near Nathella Kalyana Mandapam at Koyambedu, after observing the traffic rules and signals, a TATA 407 Van bearing Registration No.TN-74-Y-8283, belonging to the first respondent, came from the North towards the South in a rash and negligent manner, endangering public safety, and hit the deceased. Due to the impact, she was thrown down and sustained severe head injuries. Immediately after the accident, she was taken to Kilpauk Medical College (KMC) Hospital and thereafter shifted to Rajiv Gandhi Government General Hospital, Chennai, for further treatment. However, despite treatment, she succumbed to the injuries and



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died in the hospital. The accident occurred solely due to the rash and negligent driving of the driver of the said TATA Van. Therefore, the first respondent, being the owner of the vehicle, and the second respondent, being the insurer of the said Van, are vicariously and statutorily liable to pay compensation to the appellants.

3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs. 7,54,600/- as compensation, directing the 2nd respondent to pay the said amount to the appellants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimants) have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. The learned counsel for the appellants submitted that the deceased was a Fruit and vegetable vendor and earning Rs.15,000/- per



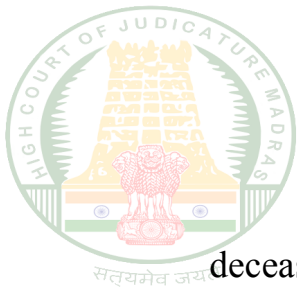
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month. However, the Tribunal erroneously considered only salary of Rs. 8,000/-. He therefore, prayed for enhancement of compensation.

6. On the other hand, the learned counsel appearing for the 2nd respondent contended that the award passed by the Tribunal is based on well-settled principles of law applicable at the time of the order, and therefore, it need not be interfered.

7. The deceased was working as Fruit and vegetable vendor and earning Rs.15,000/- per. However, no documentary evidence was adduced by the claimants to substantiate their claim that the deceased was earning a sum of Rs.15,000/- per month as mentioned in their claim petition. In the circumstances, this Court is of the opinion that fixing the notional monthly income of the deceased at Rs.12,000/- would meet the ends of justice.

8. As per the decision of the Hon'ble Supreme Court in ***National Insurance Co. vs Pranay sethi and others***, reported in 2017 (2) ***TNMAC 601***, 10% is to be added towards future prospects of the



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deceased. The deceased died, leaving behind the appellants, who are his legal heirs, namely daughter and son. Hence, 1/3 of the income is to be deducted towards the deceased's personal expenses. The deceased was aged 60 years at the time of the accident, and as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another*, reported in (2009) 6 SCC 121, the proper multiplier to be adopted in the instance case is 9. The compensation awarded under the other heads by the Tribunal is confirmed.

9. Calculation

Notional Income = Rs.12,000/-

10% Future Prospects = 12,000 + 1,200 = 13,200/-

After 1/3 deduction = 13,200 – 4,400 = Rs.8,800/-

Loss of dependency

= Rs.8,800 x 12 x 9

= Rs.9,50,400/-

10. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:



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Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Loss of dependency	6,33,600	9,50,400
2.	Loss of Estate	16,500	16,500
3.	Funeral expenses	16,500	16,500
4.	Loss of Consortium	88,000	88,000
	Total	7,54,600	10,71,400

Thus, the compensation awarded by the Tribunal is enhanced from Rs.7,54,600/- to Rs.10,71,400/-, which shall carry interest at the rate of 7.5% per annum.

11. In the result:

i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

ii. The compensation awarded by the Tribunal is enhanced from Rs.7,54,600/- to Rs.10,71,400/-.

iii. The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after the receipt of the Court fee.



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iv. The 2nd respondent, the United India Insurance Company Ltd., Chennai-600 006, is directed to deposit the enhanced compensation amount, i.e., Rs.10,71,400/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No. 7288 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Judge II, Court of Small Causes, Chennai, within a period of four weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made by the 2nd respondent, the appellants/claimants are at liberty to withdraw the same, as per the apportionment made by the tribunal, after following due process of law.

vi. The appellants/claimants shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

26.06.2025

Index: Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no
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To

- 1.The Motor Accidents Claims Tribunal, Special Judge II,
Court of Small Causes, Chennai.
- 2.The Manager,
M/s. United India Insurance Company Limited,
No.134, Greams Road,
Anna Salai, Chennai-600 006.
- 3.The Section Officer, V.R. Section,
High Court of Madras.



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T.V.THAMILSELVI, J.

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