



C.M.A.No.2150 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.2150 of 2021

1.M.Vijaya
2.M.Prakash

... Appellants

Vs.

1.P.Chandran

2.United India Insurance Co. Ltd.,
Silingi Building,
New No.134, Old No.40-45,
Greens Road, Chennai – 600 006.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.3736 of 2017 dated 31.07.2020 on the file of the Motor Accident Claims Tribunal/Special Sub-Court No.I, Motor Accident Claims Petitions) Small Causes Court, Chennai.

For Appellants : M/s.Ramya V. Rao

For Respondents : Notice dispensed with vide
order dt. 06.01.2025 [R1]
Mr.J.Vijayaraghavan [R2]



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JUDGMENT

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The claimants are before this Court seeking an enhancement of the award passed by the Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai in M.C.O.P.No.3736 of 2017, dated 31.07.2020.

2. The appellants/claimants are the daughter and son of the deceased Mari. On 23.10.2016 at about 18.30 hours, when the deceased was as pedestrain proceeding at Padur, near Akshya Home, a Mahendra Tourister Van bearing Regn.No.TN-14-C-8465 belonging to the 1st respondent, which was insured with the 2nd respondent, driven by its driver in a rash and negligent manner endangering public and hit the deceased. As a result, the deceased sustained fatal injuries all over the body and died in hospital. Therefore, the claimants have filed a claim petition claiming for a sum of Rs.30,00,000/- as compensation before the Tribunal in M.C.O.P.No.3736 of 2017 for the death of the deceased.

3. Before the Tribunal, the 1st claimant had examined herself as P.W.1 and one Karthik, the eye-witness was examined as P.W.2 and marked 11



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documents viz., Ex.P.1 to Ex.P.11. No witnesses were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal partly allowed the petition and awarded a sum of Rs.8,59,400/- as compensation to the claimants. Not satisfied with the same, the claimants/appellants have preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellants submitted that the monthly income fixed by the Tribunal is on the lower side, which requires to be re-considered by this Court. Further, he submitted that the compensation awarded under the other heads are on the lower side, which requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellants.

5. Per contra, learned counsel appearing for the second respondent/Insurance Company submitted that, by considering all the oral and documentary evidence, the Tribunal has awarded just and reasonable compensation under various heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellants and the



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learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants/claimants is with regard to the quantum of compensation awarded by the Tribunal. To compute the income under the head loss of income, no document in support of proof of the income of the deceased has been filed. However, it is claimed by the appellants/claimants that, at the time of accident, the deceased was a Fisherman and earned a sum of Rs.1,000/- per day. As per the decision of the Hon'ble Apex Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in **2014 (1) TANMAC 459**, notional income of a vegetable vendor is fixed at Rs.6,500/-, where income of the deceased is not proved through documentary evidence. However, the Tribunal had fixed a sum of Rs.8,000/- as notional income, which is on the lower side. Hence, by applying the ratio laid down by the Hon'ble Supreme Court in *Syed Sadiq's* case, fixing a notional income of Rs.14,000/- and adding future prospects at 10%, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited***



Vs. Pranay sethi and others reported in **2017 (16) Supreme Court Cases**

680, the total income per month is quantified at Rs.15,400/-. Deducting 1/3rd towards the personal expenses of the deceased, the income of the deceased is arrived at Rs.10,267/- per month and the deceased being aged about 54 years, as evidenced from the records, adopting the multiplier of 11 as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** reported in **(2009) 6 SCC 121**, the loss of income to the family is arrived at Rs.10,267/- * 12 * 11 = Rs.13,55,244/-, which is worked out as follows :-

Loss of Income	Amount (in Rs.)
Notional income (Per month)	14,000
Add: Future Prospects (Rs.14,000 x 10%) (Per month)	1,400
	15,400
Less: Personal expenses (1/3 rd) (Rs.15,400/- x 1/3 rd) (Per month)	5,133
	10,267
Notional income (per annum) (Rs.10,267/- x 12)	1,23,204
Multiplier	11
Total	13,55,244

8. Further, the Tribunal had awarded a sum of Rs.50,000/- towards loss of love and affection; Rs.15,000/- towards loss of estate; Rs.5,000/- towards Transport charges and Rs.15,000/- towards funeral expenses. This



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Court finds that the compensation awarded under the heads loss of estate and funeral expenses are just and reasonable and the same is confirmed.

However, insofar as the compensation awarded under the head loss of love and affection, this court is of the view that the said compensation is on the lower side and hence, the same is enhanced to a sum of Rs.80,000/- (40,000/- x 2). Insofar as the compensation awarded under the head transport charges, no compensation can be awarded under such head as the said head can be awarded only in the case of injury, however, the present case is fatal.

9. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

S. No.	Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
1	Total loss of dependency	7,74,400/-	13,55,244/- (enhanced)
2	Loss of love and affection (Rs.44,000/- x 4)	50,000/-	80,000/- (enhanced)
3	Loss of Estate	15,000/-	15,000/-
4	Transport charges	5,000/-	---
5	Funeral Expenses	15,000/-	15,000/-
	Total	8,59,400/-	14,65,244/-



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10. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from **Rs.8,59,400/-** to **Rs.14,65,244/-**. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.3736 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of eight (8) weeks from the date of receipt of a copy of this judgment. The above modified compensation amount shall be equally apportioned among the appellants. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellants. The appellants/claimants are directed to pay necessary additional Court fee on the enhanced compensation amount. No costs.

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Speaking Order : Yes / No

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Neutral Citation Case : Yes / No

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To

The Motor Accident Claims Tribunal/Special Sub-Court No.I, Motor Accident Claims Petitions) Small Causes Court, Chennai.



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M.DHANDAPANI,J.,

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