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C.M.A.No.1311 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.1311 of 2024

1.Mouniga
2.Rajan
3.Amuthavalli

... Appellants

vs.

1.K.Sundaramurthy

2.The Branch Manager,
The New India Assurance Co. Ltd.,
No.99/C-3, 1st Floor,
Opp. New Bus Stands, Perambalur.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 26.03.2024 made in M.C.O.P.No.45 of 2021 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Perambalur.

For Appellants : Mr.C.Vidhusan
For Respondents : Mr.R.Sivakumar [R2]

JUDGMENT

Claimants have preferred this Civil Miscellaneous Appeal for enhancement of compensation against the Award dated 26.03.2024 passed by the Motor Accident Claims Tribunal / Principal District Court, Perambalur in M.C.O.P.No.45 of 2021.

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2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. The manner in which the accident occurred is not in dispute.

4. The learned counsel for the claimants/appellants would argue that contributory negligence to the tune of 30% was fixed on the deceased is without any basis.

5. One Sundaravadivel was examined as PW2 as ocular witness. On the side of the 2nd respondent, the Assistant Manager of the Insurance Company is examined as RW1. Special Sub-Inspector of Police of Kunnam Police Station was examined as XW1 and through him, rough sketch Ex.X3 was marked. Ex.X1 and X2 are the MVI reports of lorry and two wheeler.

6. It is deducible from the evidence of PW2 that when the deceased was proceeding in his two wheeler bearing Reg.No.TN-61-T-5659, along Perambalur-Ariyalur main road towards eastern direction, a lorry bearing



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Reg.No.TN-38-AW6202 came in a rash and negligent manner from the opposite side and hit upon the deceased motor cycle and thereby accident occurred.

7. During the cross-examination of PW2, he would state that the above said lorry by overtaking another lorry came on the northern side of the road and hit upon the two wheeler of the deceased. The deceased was proceeding in his route on the western side proceeding towards eastern direction. In such circumstances, fixing of contributory negligence to the tune of 30% upon the deceased is perverse. Based upon the evidence of PW2 and such portion of the order is interfered with and stands set aside.

8. The next ground urged is the monthly income fixed as Rs.6500/- for the deceased is inadequate. It is the evidence of PW1 that the deceased though he completed M.E., Degree, he was working as a sales man in the Samsung Mobile Shop at Perambalur and earning a sum of Rs.30,000/- per month.

9. As per Ex.P5 Passport and Ex.P8 Driving Licence of the



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deceased Vasanthakumar, his age is taken as 28 years at the relevant point of time. As per the law laid down by the Hon'ble Supreme Court in **Smt.Sarla Verma and Ors., v. Delhi Transport Corporation and Another** reported in **2009 (2) TN MAC 1 (SC)**, the relevant multiplier to be selected is 17m and the deceased died leaving his wife and parents as his dependents, $1/3^{\text{rd}}$ has to be deducted for personal and living expenses.

10. As per the law laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd., v. Pranay Sethi and others**, reported in **2017 (2) TN MAC 609(SC)**, in case of the deceased, he was not in permanent job and age of the deceased is below 30 years then 40% has to be added for future prospects while computing the loss of dependency.

11. As regards personal and living expenses, and selection of multiplier, there is no issue. In consideration of the above said details, for computation of loss of dependency, the following formula emerges :

$$\text{Rs.15,167/-} + 40\% - 1/3 \times 12 \times 17\text{m} = \text{Rs.28,87,824/-}.$$

12. An amount of Rs.40,000/- is granted to the claimants 2 and 3 (father and mother of the deceased) under the head of parental



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consortium, in addition to the amount already granted by the Tribunal.

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13. As regards other heads, the amounts awarded by the Tribunal, appears to be reasonable and acceptable and therefore it does not warrant any interference by this Court. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Dependency	Rs. 28,87,824/-	Rs.28,87,824/-	Confirmed
2	For Consortium	Rs. 40,000/-	Rs. 40,000/-	Confirmed
3	For Parental Consortium	Rs. 40,000/-	Rs. 80,000/-	Enhanced
4	For Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	Confirmed
5	For Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
		Rs.29,97,824/-	Rs.30,37,824/-	
	Less 30% of the Contributory Negligence of the rider of the two wheeler	Rs. 8,99,347/-	-	Contributory Negligence is set aside
	Total	Rs.20,98,477/-	Rs.30,37,824/-	
	Rounded off to		Rs.30,38,000/-	



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14. Thus, the compensation awarded by the Tribunal is enhanced from Rs.20,98,477/- to **Rs.30,38,000/-** which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

15. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.20,98,477/- to **Rs.30,38,000/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., **Rs.30,38,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, **(excluding the period of default, if any)** to the credit of M.C.O.P.No.45 of 2021 on the file before the Motor Accident Claims Tribunal, Principal District Judge, Perambalur, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the 1st appellant / wife is at liberty to withdraw Rs.13,00,000/- and the 2nd appellant/father of the deceased is at liberty to withdraw Rs.8,38,000/- and the 3rd appellant/mother of the deceased is at liberty to withdraw Rs.9,00,000/- along with interest and costs on filing of cheque petition. The claimants are directed to pay the



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Court fee for the enhanced compensation amount, if required. The

Tribunal below shall disburse the enhanced amount upon production of

the certified copy showing proof of payment of Court fee by the claimants.

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Index : Yes/No

Speaking / Non-speaking order

ssn

To:

1. The Motor Accident Claims Tribunal,
Principal District Judge, Perambalur.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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R.KALAIMATHI, J.,

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