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CMA No. 2942 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-10-2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

CMA No. 2942 of 2025

1. FARIJA

W/o. Sahul Hameed, D.No. 16/23,
Metha Nagar, Thiruvakavundanur,
Near Bypass, Salem District 636 005

2. Sahul Hameed

S/o. Mohamad Ibrahim, D.No. 16/23,
Metha Nagar, Thiruvakavundanur,
Near Bypass, Salem District 636 005

Appellant(s)

Vs

1. Muthuselvan

S/o. Bhojaiya, G.Usilampatti, Andipatti
Taluk, Theni District 625 517

2.Sumalatha

W/o. Palkannan East Street, Rajathani,
Andipatti, Theni District 625 512

3.THE IFFCO TOKIO General

Insurance Co Ltd.

No. 82, 2nd Floor, Chandrakanthi
Nagar, Ponmeni Bypass Road,



Ponmeni, Madurai District 625 016

Respondent(s)

WEB PRAYER:

Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act praying to allow the above Civil Miscellaneous Appeal and enhance the award in the Order dated 16.12.2022 made in MCOP.NO. 528/2022, on the file of the Special District Judge, MCOP Tribunal, Salem.

For Appellant(s): C.Paraneedharan

For Respondent(s): Mrs.S. Vasavi Sridevi
for R1 & R2

M/s.B.Sivakollappan For R3

JUDGMENT

By consent of both sides, the appeal is heard and disposed of at the stage of admission itself.

2. Not being satisfied with the Award dated 16.12.2022 made in MCOP.No.523 of 2022 by the learned Special District Court (dealing with MCOP Cases), Salem, the parents of one Ajmal Khan have preferred the present Civil Miscellaneous Appeal for enhancement of compensation.

3. The parties are indicated herein as per their litigative status and



ranking before the trial court.

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4. The facts leading to filing of this Civil Miscellaneous Appeal is as follows:

(i) On 09.10.2021, at about 03.40 p.m., when the deceased son of the appellants viz., Ajmalkhan, was proceeding in his Bajaj Pulsar two wheeler bearing Regn.No.TN-60 AU-9822 from west to east in Uppukottai Road, near Sadayalpatti Division Road, a Tipper Lorry bearing Regn.No.TN-28 BC-9742, which was coming from north to south direction, driven by its driver in a rash and negligent manner hit against the two wheeler driven by the deceased Ajmal Khan. Due to the accident, the deceased sustained fatal injuries on the back of his head and succumbed to injuries on the spot.

(ii) The respondents 1 to 3 are respectively, driver, owner and insurer of the Tipper Lorry.

(iii) Since the accident occurred only due to the rash and negligent driving of the driver of the Tipper Lorry, the 2nd respondent-owner of the offending vehicle and the 3rd respondent -insurer of the offending vehicle, both are jointly and severally liable to pay compensation to the claimants.



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(iv) Hence, the claimants have made a claim petition before the Special District Judge for MCOP Cases, Salem, Motor Accident Claims Tribunal in M.C.O.P.No.528 of 2022 claiming compensation of Rs.25,00,000/- against the respondents stating that at the time of accident, the deceased was aged 25 years and was working as a painting contractor and was earning Rs.25,000/- per month. Due to the accident, since they have lost their son, they have lost their only source of income.

(v) Refuting the averments made in the claim petition, counter was filed by the insurance company denying that the accident was caused due to the rash and negligent driving of the 1st respondent, but it was caused due to the rash and careless driving of the two wheeler driven by the deceased. It also denied the fatal injuries sustained by the deceased, age, educational qualification, avocation and income of the deceased and compensation claimed under various heads claiming that they are all subject to strict proof.

(vi) Before the Tribunal, on the side of the claimants, PW1 and PW2 were examined and exhibits Ex.P.1 to Ex.P.12 were marked. On behalf of the respondents, neither any witness was examined nor documents were marked.



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(vii) The tribunal, on an appreciation of oral and documentary evidence and after hearing the arguments advanced by either side counsels, awarded compensation of Rs.11,30,000/- with proportionate costs to the claimants along with 7.5% interest p.a., from the date of petition. The Tribunal directed the respondents to pay the abovesaid compensation amount jointly and severally.

(viii) The compensation awarded by the Tribunal to the claimants under various heads is as follows;

<i>Heads</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>
For Loss of dependency	Rs. 10,80,000/-
For Loss of Estate	Rs. 25,000/-
For Funeral Expenses	Rs. 25,000/-
Total	Rs. 11,30,000/-

(ix) The apportionment made by the tribunal to the claimants out of the compensation awarded, is as follows:

1st claimant - Rs.8,30,000/-
2nd claimant - Rs.3,00,000/-

5. Aggrieved by the compensation awarded by the Tribunal, the



claimants have preferred the present Civil Miscellaneous Appeal.

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6. Learned counsel for the appellants/claimants would contend that the deceased was working as a painting contractor and was earning a sum of Rs.25,000/- per month, but the Tribunal fixed the notional income of the deceased inclusive of future prospectus at Rs.10,000/- which is very less. The learned counsel for the appellants would also contend that for loss of consortium, no amount was granted by the tribunal.

7. Learned counsel for the respondents submitted that the tribunal has rightly fixed the monthly income of the deceased at Rs.10,000/- and accordingly arrived at compensation under the head loss of dependency. He further submitted that the compensation awarded by the tribunal under other heads are also just and reasonable. Hence, the award of compensation granted by the tribunal need not be interfered with by this court and prayed for dismissal of the appeal.

8. Heard both sides and perused the materials available on record.



The manner in which, the accident took place is not in dispute.

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10. It is the evidence of PW1-Farija that her son Ajmal Khan was working as a Painting Contractor and was earning a sum of Rs.25,000/- per month. To substantiate the details regarding the avocation and income of the deceased, no document was marked. As per Ex.P.2-Accident Register, the age of the deceased is fixed as 24 years. The date of the accident is 09.10.2021. In consideration of the above said details, the income of the deceased Ajmal Khan is fixed as Rs.17,000/- per month.

11. The Honourable Supreme Court has standardised the details of future prospectus in the case of **National Insurance Company Limited Vs. Pranay Sethi (2017 2 TN MAC 609 SC)**, wherein, the Supreme Court has held that for the age group of persons below 40 years, who was not holding permanent job, 40% future prospectus is to be added with the income of the deceased while computing the loss of dependency. In the light of the above judgment of the Apex Court, 40% is added to the income of the deceased towards future prospectus.

12. In this case, the deceased Ajmal Khan died as a bachelor. As per



the law laid down by the Honourable Apex Court in ***Sarla Verma and others***

Vs. Delhi Transport Corporation and another (2009 2 TNMAC 1 SC), 50%

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has to be deducted towards the personal and living expenses of the deceased. Accordingly, 50% of his salary is deducted towards personal and living expenses.

13. As per the judgment of the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi (cited supra)***, the claimants being the parents of the deceased Ajmal Khan are entitled for 40,000/- towards loss of consortium. Accordingly, this Court awards a sum of Rs.40,000/- to each claimant towards loss of consortium to the parents of the deceased son/claimants. Thus, by selecting the relevant multiplier 18m, the following formula emerges:

$$17000 + 40\% \text{ (future prospectus)} - \frac{1}{2} \times 12 \times 18 = \text{Rs.25,48,800/-}$$

14. As regards other heads such as funeral expenses, loss of estate, the amounts awarded by the tribunal appears to be acceptable and reasonable, hence the same needs no interference by this Court. Thus, the compensation granted by the tribunal under the above heads are hereby



15. The compensation awarded by the tribunal is re-worked and the same is tabulated hereunder:

<i>Heads</i>	<i>Compensation awarded by the Tribunal</i>	<i>Compensation awarded by this Court</i>
For Loss of dependency	Rs. 10,80,000/-	Rs.25,48,800/- - enhanced
For Loss of Estate	Rs. 25,000/-	Rs. 25,000/- - confirmed
For Funeral Expenses	Rs. 25,000/-	Rs. 25,000/- - confirmed
For Loss of consortium	--	Rs. 80,000/- - granted
Total	Rs. 11,30,000/-	Rs. 26,77,000/- (enhanced)

16. Thus, this Court awards Rs.26,77,000/- towards compensation for the claimants along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. Out of the compensation awarded by this Court of Rs.26,77,000/-, this Court awards Rs.16,77,000/- to the 1st claimant/1st appellant and Rs.10,00,000/- to the 2nd claimant/1st appellant.

17. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.



- The compensation awarded by the Tribunal is enhanced from Rs.11,30,000/- to Rs.26,77,000/-.
- The respondents are directed to deposit the enhanced compensation of Rs.26,77,000/- awarded by this Court to the credit of MCOP.No.528 of 2022 on the file of Special District Judge, MCOP Tribunal at Salem, along with interest at the rate of 7.5% per annum from the date of petition, till the date of realisation, (excluding the period of default, if any) less the amount, if any deposited within a period of eight weeks from the date of receipt of a copy of this judgment.
- On such deposit, the appellants/claimants are at liberty to withdraw the amount now determined by this Court, as per the apportionment made by this court along with interest and costs, after adjusting the amount, if any already withdrawn, by filing application before the Tribunal.
- The claimants are directed to pay the court fee for the enhanced compensation amount, if required. The Tribunal shall disburse the enhanced amount upon production of the certified copy showing proof of payment of court fee by the claimants/appellants.

msr

Index:Yes/No

Internet:Yes

31-10-2025



To

1.Muthuselvan

S/o. Bhojaiya, G.Usilampatti, Andipatti

Taluk, Theni District 625 517

2.Sumalatha

W/o. Palkannan East Street, Rajathani,

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R.KALAIMATHI J.

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