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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 19.08.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**C.M.A.No.1563 of 2025**

1.Globsha  
2.K.Omeya Zain (Minor)  
(2nd petition is minor represented by  
his natrual guardian and mother and  
next friend Mrs.Globsha) ... Appellants

Vs.

1. K.Manikandan  
2. The Manager  
Royal Sundaram General Insurance Company Limited  
Subramaniam Building, 2nd Floor  
No.1, Club House Road  
Anna Salai, Chennai-600 002. ... Respondents

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the fair and decreetal order dated 24.04.2023 made in M.A.C.T.O.P No.618 of 2019 on the file of the Motor Accidents Claims Tribunal/ II Judge, Court of Small Causes, Chennai.

For Appellant : Mr.A.G.F.Terry Chella Raja

For Respondent-2 : Mr.S.Srinivasan  
No Appearance for R1



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## **JUDGMENT**

The appellants have filed this appeal against the fair and decreetal order dated 24.04.2023, passed in M.A.C.T.O.P.No.618 of 2019, by the Motor Accident Claims Tribunal/ II Judge, Court of Small Causes, Chennai.

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

On 22.12.2018 at about 17.00 hours, while the deceased was riding his unregistered new motor cycle at left side of Karanai Puducherry, near Murugan Enterprises, Kanchipuram District, at that time, a Lorry bearing Registration No.TN 19 AJ 8607 which was driven by its driver in a rash and negligent manner and hit against him. Due to the said accident, the deceased sustained grievous injuries and thereafter, he was admitted at Parvathy Hospital, Chromepet, Chennai, where he died. Hence, the legal heirs of the deceased has filed a claim petition before the Tribunal seeking compensation for a sum of Rs.45,00,000/-.



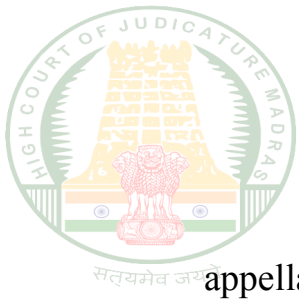
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3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.20,25,000/- as compensation, directed the second respondent to pay the said amount to the appellants along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

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 employed as salesmen cum tatoo artist, Chennai and was earning Rs.30,000/- per month and the accident was happened in the year 2018. But, without considering the same, the Tribunal has fixed only Rs.10,000/- per month as notional income of the deceased. Hence prays to enhance the compensation by allowing this petition.

6. On the other hand, the learned counsel appearing for the second respondent contended that there is no proof of income on the side of the



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appellants and the Tribunal has rightly fixed the notional income and hence, 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. Heard the learned counsel on either side and perused the materials available on record.

8. On an analysis of the award of the Tribunal would go to show that the Tribunal has awarded Rs.19,04,000/- for total loss of dependency; Rs.88,000/- towards consortium; Rs.16,500/- towards loss of estate; and Rs.16,500/- towards funeral expenses.

9. As far as the negligence is concerned, eventhough the learned counsel for the second respondent /Insurance company contended that at the time of accident, the deceased was not wearing the helmet and he was riding an unregistered and uninsured motorcycle without driving license, no oral and documentary evidence was adduced on their side before the Tribunal. However, as seen from the records, at the time of accident, the



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deceased sustained head injuries and died, which shows that he was not wearing helmet at the time of accident and hence, the deceased sustained head injuries and died. Therefore, this Court is inclined to fix the contributory negligence on the part of the appellant/insurance company at 90% and 10% negligence on the part of the deceased. As far as the future prospects is concerned, as per the Pranay Sethi case, the Tribunal is right in granting 40% future prospects.

10. From the materials available on record, it is seen that the appellants have contended that deceased was working as as salesmen cum tatoo artist, and was earning a sum of Rs.30,000/- per month at the time of accident. But, no proof of income has been filed by the appellants/claimants. In the absence of material evidence, the Tribunal fixed a sum of Rs.10,000/- as monthly income of the deceased, who died in the accident that had occurred in the year 2018, which is meager. However, considering the rise in cost of living and other related factors, it would be appropriate to fix a sum of Rs.600/- per day i.e Rs.18,000/- (600 x 30) towards monthly income of the deceased. Accordingly, the loss of income is modified as follows:



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### Calculation

Notional Income = Rs.18,000/-

40% Future Prospects = 18,000 + 7,200 = 25,200/-

After 2/3 deduction = 25,200 – 8,400 = Rs.16,800/-

### Loss of dependency

= Rs.16,800 x 12 x 17

= Rs.34,27,200/-.

The compensation awarded under the other heads are reasonable and does not require interference of this Court.

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

| Sl. No | Heads              | Amount (in Rs.) awarded by the Tribunal | Amount (in Rs.) awarded by the High Court |
|--------|--------------------|-----------------------------------------|-------------------------------------------|
| 1.     | Loss of Dependency | 19,04,000/-                             | 34,27,000/-                               |
| 2.     | Loss of consortium | 88,000/-                                | 88,000/-                                  |
| 3.     | Loss of estate     | 16,500/-                                | 16,500/-                                  |
| 4.     | Funeral Expenses   | 16,500/-                                | 16,500/-                                  |



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|   | Total                              | Rs.20,25,000/-     | Rs.35,48,000/-     |
|---|------------------------------------|--------------------|--------------------|
| 5 | 10% deduction                      |                    | 3,54,800/-         |
|   | <b>Total (after deducting 10%)</b> | <b>20,25,000/-</b> | <b>31,93,200/-</b> |

Thus, the compensation awarded by the Tribunal is enhanced from **Rs.20,25,500/- to Rs.31,93,200/-**, which shall carry interest at the rate of 7.5% per annum. **The appellants/claimants are equally entitled to the enhanced compensation amount.**

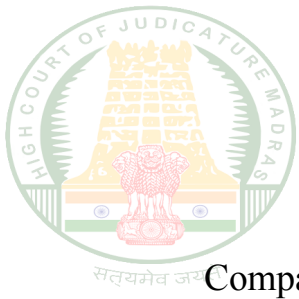
#### 11. In the result:

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.20,25,500/- to Rs.31,93,200/-**.

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.

iv. The second respondent/ Royal Sundaram General Insurance



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Company Limited, is directed to deposit the enhanced compensation amount, i.e., **Rs.31,93,200/-**, (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.618 of 2019, on the file of the Motor Accident Claims Tribunal/II Judge, Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made, the 1st appellant/1st claimant is at liberty to withdraw the same, after following due process of law.

vi. The second appellant being minor, is directed to have his respective shares of the award amount invested in any one of the Nationalized Banks under a Fixed Deposit Scheme initially **for a period of three years** which shall be renewed periodically until he attains majority. The 1<sup>st</sup> appellant/1<sup>st</sup> claimant, being the natural guardian of the minor claimant, is permitted to withdraw the interest accrued thereon **once in three months**, and the same shall be utilized for the welfare of the minor claimant.



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vii. The appellants/claimants shall not be entitled to claim interest

for the period of delay, if any, in filing this appeal.

19.08.2025

Index: Yes/No

Speaking/non Speaking order

Neutral Case citation: yes/no

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To

1. The Motor Accidents Claims Tribunal/II Judge, Court of Small Causes,  
Chennai.

2. The Manager

Royal Sundaram General Insurance Company Limited

Subramaniam Building, 2nd Floor

No.1, Club House Road

Anna Salai, Chennai-600 002.

3. The Section Officer, V.R. Section, High Court of Madras.

**T.V.THAMILSELVI, J.**



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