



C.M.A.No.1329 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 24.06.2025

Coram:

The Honourable Mrs.Justice T.V.THAMILSELVI

C.M.A.No.1329 of 2025

1.K.Prem

2.K.Jaikumar

3.K.Tamilselvi

...Appellants

Versus

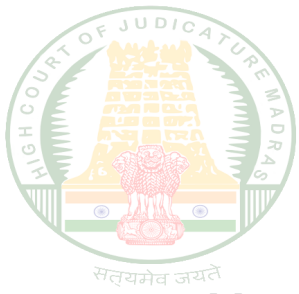
1.The Managing Director,
MTC Ltd.,
Pallavan House,
Chennai – 2.

2.N.Venkaesan

3.V.Sivakumar

4.ICICI Lombard General Insurance Co. Ltd.,
No.84/85, 1st Floor, Arihant Plaza,
Walltax Road,
Chennai – 03.

...Respondents



C.M.A.No.1329 of 2025

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 praying to set aside the Award dated 11.12.2024 in M.C.O.P.No.3302 of 2016 on the file before the Motor Accident Claims Tribunal (III Court Motor Accident Claims Petitions) Small Causes Court, Chennai and enhance the award from Rs.12,70,000/- to Rs.21,00,000/- only.

For Appellants	:	Mr.T.G.Ravichandran
For Respondent – 1	:	No Appearance
For Respondent – 2	:	Notice sent returned with the postal endorsement, “Vacated”
For Respondent – 3	:	Notice sent returned with the postal endorsement, “Not Residing”
For Respondent – 4	:	Mr.B.Sivakollappan

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellants/claimants praying to set aside the Award dated 11.12.2024 in M.C.O.P.No.3302 of 2016 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai and to enhance the quantum of compensation awarded by the Tribunal.



C.M.A.No.1329 of 2025

WEB COPY

2. The brief facts of the case are that on 08.10.2015, at about 6.00 a.m, while Mrs.Latha (mother of appellants/claimants) was travelling as passenger in an Auto bearing Registration No.TN 05 U 4124 owned by respondents 2 & 3 and insured with 4th respondent/Insurance Company, in Kamarajar Salai from South to North direction opposite to Lady Wellington College, Chennai, the MTC Bus bearing Registration No.TN 01 N 5821 owned by 1st respondent which was driven by its driver in a rash and negligent manner endangering to public safety from North to South direction, dashed the said Auto and thus, the accident caused. In the accident, Mrs.Latha (mother of appellants/claimants) had died. Hence, the appellants/claimants (children of the deceased Latha) had filed a Claim Petition in M.C.O.P.No.3302 of 2016 against 1st respondent (owner of the MTC Bus), respondents 2 & 3 (owners of the Auto) and 4th respondent/Insurance Company, claiming a sum of Rs.21,00,000/- as compensation for the death of their deceased mother Latha.

3. The respondents 2 & 3 (owners of the Auto) remained *ex-parte* before the Tribunal.



C.M.A.No.1329 of 2025

WEB COPY 4. The 1st respondent (owner of the MTC Bus) and 4th respondent/Insurance Company had filed their respective counter statement denying all the averments made by the appellants/claimants in the Claim Petition.

5. Before the Tribunal, on the side of appellants/claimants, 2nd appellant/claimant examined himself as P.W.1 and one other witness was examined as P.W.2 and 18 documents were marked as Exs.P1 to P18. On the side 2nd respondent, one witness was examined as R.W.1 and one document was marked as Ex.R1.

6. On appreciation of the oral and documentary evidence, the Tribunal arrived at the finding that the accident occurred due to the fault of drivers of both the vehicles viz., MTC Bus and Auto. Thus, the Tribunal fixed the contributory negligence equally on the driver of MTC Bus as well as on the driver of Auto. Further, the Tribunal held that since the MTC Bus owned by 1st respondent was not insured with any Insurance Company,



being the owner of the MTC Bus, 1st respondent is liable to pay 50% of compensation to the appellants/claimants and being the insurer of Auto, 4th respondent/Insurance Company is liable to pay the balance 50% of compensation to the appellants/claimants.

7. The Tribunal has awarded a sum of Rs.12,70,000/- as compensation to the appellants/claimants. The break-up details of the compensation awarded by the Tribunal are as follows:

S.No.	Heads	Amount awarded under various Heads
1	Total Loss of Dependency	Rs.11,20,000/-
2	Loss of Consortium	Rs. 1,20,000/-
3	Loss of Estate	Rs. 15,000/-
4	Funeral Expenses	Rs. 15,000/-
Total		Rs.12,70,000/-

8. The Tribunal partly allowed M.C.O.P.No.3302 of 2016 and held that 1st respondent (owner of the MTC Bus) and 4th respondent/Insurance Company are equally liable to pay the compensation of Rs.12,70,000/- (Rupees Twelve Lakhs and Seventy Thousand Only) to the appellants/claimants with proportionate cost and interest at 7.5% per annum



C.M.A.No.1329 of 2025

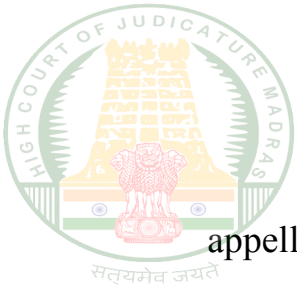
from the date of claim petition till the date of realization. It also held that

out of the total compensation, 1st appellant/claimant, married son of the deceased is entitled to Rs.4,00,000/-; 2nd appellant/claimant, unmarried son of the deceased is entitled to Rs.4,70,000/- and 3rd appellant/claimant, married daughter of the deceased is entitled to Rs.4,00,000/-.

9. Now the appellants/claimants have preferred this Civil Miscellaneous Appeal before this Court, praying to set aside the Award passed by the Tribunal and to enhance the quantum of compensation awarded by the Tribunal.

10. The learned counsel for the appellants/claimants submitted that on the date of accident, the deceased was 44 years. At the time of accident, the deceased Latha was a Fish Vendor and she was earning Rs.15,000/- per month, but, the Tribunal has fixed only Rs.8,000/- as notional monthly income of the deceased Latha.

10.1. It is further submitted by the learned counsel for the



C.M.A.No.1329 of 2025

appellants/claimants that while fixing the notional monthly income of the deceased, the Tribunal failed to consider the economic conditions prevailing in the year 2015 in which the accident took place. The notional monthly income of the deceased fixed by the Tribunal is on the lower side. Therefore, the learned counsel for the appellants/claimants prayed that the notional monthly income of the deceased may be fixed as Rs.15,000/-.

11. On the other hand, the learned counsel appearing on behalf of 4th respondent/Insurance Company submitted that the appellants/claimants did not produce any documentary evidence before the Tribunal to prove that their deceased mother was a Fish Vendor and she was earning Rs.15,000/- per month. Therefore, in the absence of such documentary evidence, the Tribunal has fixed Rs.8,000/- as notional monthly income of the deceased.

12. Heard the learned counsel for the appellants/claimants as well as the learned counsel appearing for 4th respondent/Insurance Company and perused the materials available on record.



C.M.A.No.1329 of 2025

13. According to the appellants/claimants, at the time of accident, the deceased was a Fish Vendor and she was earning Rs.15,000/- per month. However, without considering the same, the Tribunal has fixed Rs.8,000/- as monthly income of the deceased.

14. Considering the year of accident, age and job of the deceased at the time of accident, this Court is of the opinion that it would be just and reasonable to fix Rs.14,000/- as notional monthly income of the deceased Latha. Thus, by adding 25% towards future prospects of the deceased, deducting 1/3rd towards personal expenses of the deceased and applying the multiplier '14', the compensation under the head, 'Loss of Dependency' is enhanced as follows:

$$\text{Rs.14,000} + \text{Rs.3,500 (25\% of Rs.14,000)} \times 12 = \text{Rs.2,10,000}$$

$$\text{Rs.2,10,000} - \text{Rs.70,000 (1/3rd of Rs.2,10,000)} = \text{Rs.1,40,000/-}$$

$$\text{Rs.1,40,000} \times 14 = \text{Rs.19,60,000/-}$$

15. The compensation awarded by the Tribunal under all other heads is just and reasonable and hence, the same are confirmed.



WEB COPY 16. The break-up details of the enhanced award are as follows:

Sl. No.	Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award Confirmed or Enhanced or Granted or Reduced
1	Total Loss of Dependency	Rs.11,20,000/-	Rs.19,60,000/-	Enhanced
2	Loss of Consortium	Rs. 1,20,000/-	Rs. 1,20,000/-	Confirmed
3	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	Confirmed
4	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
Total		Rs.12,70,000/-	Rs.21,10,000/-	Enhanced by Rs.6,90,000/-

17. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.12,70,000/- awarded by the Tribunal is enhanced to Rs.21,10,000/- (Rupees Twenty One Lakhs and Ten Thousand only) together with interest at 7.5% per annum from the date of petition till the date of deposit. Out of the enhanced award amount, the appellants/claimants are entitled to Rs.7,03,333/- each. The 1st respondent (owner of the MTC Bus) shall deposit 50% of the enhanced award amount i.e., Rs.10,55,000/- and 4th respondent/Insurance Company shall deposit the



C.M.A.No.1329 of 2025

balance 50% of the enhanced award amount i.e., Rs.10,55,000/-

respectively, after deducting the amount(s), if any, already deposited, along with interest at 7.5% per annum from the date of petition till the date of deposit (excluding the default period, if any), to the credit of M.C.O.P.No.3302 of 2016, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw their respective share of the award amount along with proportionate interest and cost, as per the apportionment ordered by this Court. The appellants/claimants are directed to pay the necessary Court fee, if any, on the enhanced award amount, before receiving the copy of this judgment. No costs.

24.06.2025

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.Motor Accident Claims Tribunal,
III Court of Small Causes Court,
Chennai.

2.The Section Officer,
Vernacular Records Section,
High Court, Madras.

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C.M.A.No.1329 of 2025

T.V.THAMILSELVI, J.

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C.M.A.No.1329 of 2025

24.06.2025