



CMA.Nos.1313 and 1364 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 17.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.Nos.1313 and 1364 of 2024

CMA.No.1313 of 2024:

The United India Insurance Company Limited,
Silingi Building, No.134, Greams Road,
Chennai – 600 006.

... Appellant

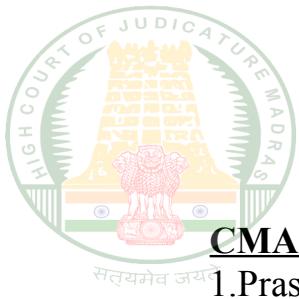
Vs.

1.Prasanna Kumari
2.Divakaran
3.Sakthi
4.Manikandan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 23.11.2023 made in MCOP.No.2144 of 2018, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge II/Court of Small Causes, Chennai.

For Appellant :Mr.D.Bhaskaran
For Respondents :Mr.S.Ravikumar for R1 to R3
No Appearance for R4



CMA.Nos.1313 and 1364 of 2024

CMA.No.1364 of 2024:

1.Prasanna Kumari
2.Divakaran
3.Sakthi

... Appellant

Vs.

1.Manikandan
2.The United India Insurance Company Limited,
Silingi Building, No.134, Greams Road,
Chennai – 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order dated 23.11.2023 made in MCOP.No.2144 of 2018, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge II/Court of Small Causes, Chennai.

For Appellant : Mr.S.Ravikumar

For Respondents :Mr.D.Bhaskaran for R2
Notice dispensed with for R1

COMMON JUDGMENT

These appeals are filed by the Insurance Company as well as the claimant, challenging the award passed by the Motor Accident Claims Tribunal in MCOP.No.2144 of 2018.



CMA.Nos.1313 and 1364 of 2024

2. CMA.No.1313 of 2024 was filed by the insurer of the offending vehicle and CMA.No.1364 of 2024 was filed by the claimants.

For the sake of convenience parties are referred as per their ranks in claim petition.

3. It is not in dispute that the son of the claimants 1 and 2 and brother of the 3rd claimant namely Dina Prasad died in a road accident that had occurred on 26.01.2018. The deceased was riding a motorcycle near Pandian Hotel in P.H.Road, Vanagaram. At that point of time, the lorry owned by the first respondent insured with the second respondent proceeded in a rash and negligent manner and hit the motorcycle driven by deceased from behind. As a result of the accident, the deceased fell down and the left side back wheel of the lorry ran over him. Later, the deceased died in the hospital and hence the claim petition was filed claiming a compensation of Rs.1,00,00,000/-.

4. The first respondent/owner of the lorry remained ex-parte before the Tribunal and the claim was resisted only by the second respondent Insurance Company by denying manner of accident as



WEB COPY

mentioned in the claim petition. It was the case of the insured that the accident had occurred only due to the negligence on the part of the deceased and also denied the age and income of the deceased.

5. The Tribunal based on the evidence available on record came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the lorry belonged to the first respondent and insured with the second respondent. The amount payable to the claimant was quantified at Rs.31,34,000/-. Aggrieved by the quantum of compensation, the claimants as well as the second respondent/Insurance company have come by way of these appeals.

6. The learned counsel appearing for the claimants would submit that the deceased was an Engineering graduate and his salary slip Ex.X4 marked through the Officer of the company would establish that his monthly income was Rs.22,000/- and the same was overlooked by the Tribunal and the income was fixed at Rs.15,000/- per month. The learned counsel further submits that the income fixed by the Tribunal is very much on lower side and the same needs to be enhanced.



CMA.Nos.1313 and 1364 of 2024

7. The learned counsel appearing for the second

respondent/Insurance Company would submit that the deceased died as a bachelor and therefore, as per law laid down by the Apex Court in Sarla Verma case, the Tribunal ought to have deducted 1/2 of the amount towards personal expenses instead of 1/3rd.

8. In the claim petition, it was stated that the deceased was an Engineering graduate and he was employed in PKR Equipments Private Limited and was earning Rs.25,000/- per month. The certificate issued by the Engineering college marked as Ex.P7 would indicate that the deceased completed B.E Mechanical Engineering. The employer of the deceased was examined as PW.2 and through him the appointment letter of the deceased and his pay slips were marked as Exs.X5 and X4 respectively.

9. A perusal of pay slips marked before the Tribunal would indicate that the deceased was paid a sum of Rs.22,000/- as salary per month. The Tribunal rejected Ex.X4 salary slip on the ground that though PW.2 admitted that there were more than 20 employees in the company, no deductions were made towards provident fund. Further the claimants have



WEB.COM

not produced bank account details to show that the amount mentioned in salary slips was in fact credited to the account of the deceased. Though PW.2 in his evidence clearly stated that salary of the deceased would be credited only to the account of the employee, the claimants have not produced bank details of the deceased to prove the said fact. Taking into consideration all these facts, the Tribunal rejected salary slips as Ex.X4 and fixed the notional income at Rs.15,000/- per month. As mentioned earlier, the deceased was an engineering graduate and the accident had occurred in the year 2018. He also produced some evidence to show that he was working in a company. Taking into consideration this Court deems it appropriate to fix the monthly income of the deceased at Rs.20,000/- per month.

10. As per Ex.P3-Post mortem certificate, the Tribunal fixed age of the deceased at 24, added 40% towards future prospects and adopted the multiplier as 18. As per the law laid down by the ***Sarla Verma and others Vs. Delhi Transport Corporation and others*** reported in ***2009 (2) TNMAC 1***, $\frac{1}{2}$ of the amount shall be deducted towards personal expenses of the deceased who died as bachelor. Therefore, the loss of dependency is



CMA.Nos.1313 and 1364 of 2024

fixed at Rs.30,24,000/- (Rs.20,000x1.4x12x18x1/2).

WEB COPY

11. The amount of Rs.80,000/- awarded by the Tribunal under the head loss of consortium is confirmed and the claimants 1 and 2 are entitled to Rs.40,000/- (each) under the head loss of consortium. The Tribunal has not awarded any amount towards loss of love and affection to the 3rd claimant. Therefore, in addition to the above said amount Rs.40,000/- is granted towards loss of love and affection to the 3rd claimant. The Tribunal has granted Rs.15,000/- each under the head loss of estate and funeral expenses and the same are confirmed. Therefore, the claimants are entitled to Rs.31,74,000/- and the award passed by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Loss of dependency	Rs.30,24,000/-	Rs.30,24,000/-
2.	Loss of consortium	Rs.80,000/-	Rs.80,000/-
3.	Loss of Estate	Rs.15,000/-	Rs.15,000/-
4.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
5.	Loss of love and affection	-	Rs.40,000/-
	Total	Rs.31,34,000/-	Rs.31,74,000/-



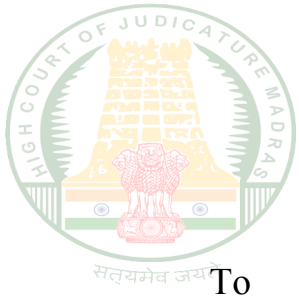
CMA.Nos.1313 and 1364 of 2024

WEB COPY

12. In view of the discussions made earlier, the appeal filed by the Insurance Company in CMA.No.1313 of 2024 stands dismissed and the appeal filed by the claimants in CMA.No.1364 of 2024 stands partly allowed. The award amount is enhanced from Rs.31,34,000/- to Rs.31,74,000/-. The second respondent/Insurance Company is directed to deposit the amount with interest at the rate of 7.5% per annum within a period of six weeks. The claimants are permitted to withdraw the said amount. No costs.

17.03.2025

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
ub



CMA.Nos.1313 and 1364 of 2024

WEB COPY
To
1.The Motor Accident Claims Tribunal
Special Subordinate Judge II/Court of Small Causes,
Chennai.

2.The Section Officer
VR Section, High Court, Madras.



WEB COPY



CMA.Nos.1313 and 1364 of 2024

S.SOUNTHAR, J.

ub

CMA.Nos.1313 and 1364 of 2024

17.03.2025