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CMA No. 2913 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

CMA No. 2913 of 2025

1. Kokila
2. Minor Kowshika
3. Minor Prathiksan
4. Malarselvi

... Petitioners

VS

1. L.N. Annamalai
2. M/s. Reliance G.I.Co., Ltd.,
Sri Lakshmi Complex, 1st Floor,
Bharathi Street, Omalur Main
Road, Swarnapuri, Salem.

... Respondent(s)

PRAYER:

Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act praying to enhance the compensation made in MCOP.No.1433 of 2021 on the file of the MCOP Tribunal, Special District Court, Salem by allowing this Civil Miscellaneous Appeal.

For Appellant(s): Mr. S.P. Yuvaraj

For Respondent(s): Mr. P. Suresh Srinivasan for R2

JUDGMENT

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

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



ranking before the trial court .

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3. The legal heirs of the deceased Baskar have preferred this Civil Miscellaneous Appeal against the Award dated 01.06.2023 made in MCOP.No.1433 of 2021 on the file of Special District Court (to deal with MCOP Cases, Salem) for enhancement of compensation.

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

(i) On 13.08.2021, at about 20.30 hours, when the deceased-Baskar was riding his motor cycle No.TN-30-AA-0697 on the left side of Salem-Harur Main Road, a lorry bearing Regn.No.TN-88-A-9975 which was coming from the same direction, driven by its driver in a rash and negligent manner, hit against the motor cycle and caused the accident. Due to the accident, the deceased sustained fatal injuries and died on the next day at hospital.

(ii) The respondents 1 and 2 are respectively the owner and insurer of the Lorry bearing Regn.No. TN-88-A-9975.

(iii) Since the accident occurred only due to the rash and negligent driving of the driver of the Lorry, the owner and insurer of the offending vehicle are jointly and severally liable to pay compensation to the claimants.

(iv) The claimants have made a claim petition before the Special District Judge, Salem (for MCOP Cases) (in the Court of the District Judge of Salem) in M.C.O.P.No.433 of 2021 claiming compensation of Rs.50,00,000/- against the respondents stating that at the time of accident, the deceased was aged 39 years and was working as coolie at brick kiln and was earning



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Rs.25,000/- per month. Due to the accident, the claimants/dependants of the deceased lost their source of income.

(v) The 1st respondent/owner of the offending vehicle remained exparte before the Tribunal. Refuting the averments made in the claim petition, counter was filed by the 2nd respondent Insurance Company denying the manner of accident, age of the deceased, avocation, income. It was averred in the counter that the accident was not caused due to the rash and negligent driving of the driver of the lorry, but due to the carelessness of the deceased.

(vi) Before the Tribunal, on the side of the claimants, one witness was examined and sixteen documents were marked and on behalf of 2nd respondent, two witnesses were examined and exhibits Ex.R.1, Ex.X1 and Ex.X2 were marked.

(vii) The Tribunal, on appreciation of oral and documentary evidence, awarded compensation of Rs.14,95,000/- with proportionate costs to the claimants along with 7.5% interest p.a., from the date of petition. It ordered the 2nd respondent/Insurance Company to pay the above said compensation to the claimants and later recover the same from the 1st respondent.

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

<i>Heads</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>
For Loss of Income (Rs.10,000 x 12 x 15 = Rs.18,00,000 – 1/3	Rs.13,50,000/-



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Heads	Compensation awarded by the Tribunal (Rs.)
(4,50,000)	
For Loss of Love and affection (20,000 x 4)	Rs. 80,000/-
For Loss of Consortium	Rs. 40,000/-
For Funeral Expenses	Rs. 25,000/-
Total	Rs.14, 95, 000/-

5. Aggrieved against the compensation awarded by the Tribunal, the claimants have preferred the present Civil Miscellaneous Appeal.

6. Learned counsel for the appellants would argue that the deceased was aged about 38 years at the relevant point of time and he was working as a coolie in brick-kiln earning Rs.25,000/- per month. However, the Tribunal fixed the notional income of the deceased inclusive of future prospectus at Rs.10,000/- and the same is inadequate. It is further contended that the amounts awarded by the Tribunal under other heads such as loss of love and affection, loss of consortium are very less. Hence, he prayed for enhancement of the total compensation awarded by the Tribunal.

7. Learned counsel for the 2nd respondent/Insurance Company 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 income. 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 as such, prayed for dismissal of the Appeal.

8. Heard the learned counsel appearing for the appellants/claimants and the learned counsel appearing for the 2nd respondent/Insurance Company.

9. The manner in which, the accident took place is not in dispute. It is the evidence of PW1 that the deceased was working as a coolie in brick kiln and was earning a sum of Rs.25,000/- per month. As per Ex.P.7-Adhar Card of the deceased, the age of the deceased is taken as 38 years at the relevant point of time. The date of accident is 13.08.2021. The deceased succumbed to injuries on the next day of the accident. In consideration of the above details, the income of the deceased is taken at Rs.15,000/-. As per the law laid down by the Honourable Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi (2017 2 TN MAC 609 SC)**, the Supreme Court had standardised the details of future prospectus in the case of persons who are self employed or not having fixed salary. As per the above decision, for the age group of persons below 40 years, 40% of the income has to be added as future prospectus while computing the notional income of the deceased.

10. As held in **Sarla Verma and others Vs. Delhi Transport Corporation** reported in **2009 2 TNMAC (SC)**, the appropriate multiplier to be adopted is 15m. As the claimants are 4 in number (wife, two children and mother), 1/4th has to be deducted towards personal and living expenses of the



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deceased from the salary of the deceased. In consideration of the above said details, to compute loss of dependency, the following formula emerges:

$$\text{Rs.15,000} + 40\% - 1/4 \times 12 \times 15m = \text{Rs.28,35,000/-}$$

11. In respect of the amount granted under the head loss of consortium, the same appears to be meagre, hence a sum of Rs.80,000/- is granted.

12. It is seen that the Tribunal has awarded no amount under the head loss of estate. Therefore, a sum of Rs.15,000/- is granted under such head. As regards the other heads, the amount awarded by the Tribunal appears to be reasonable and acceptable, hence, it does not warrant any interference by this Court.

13. As discussed above, the amounts granted by this Court under various heads after re-work are tabulated hereunder:

Heads	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
For Loss of dependency	Rs.13, 50,000/-	Rs.28,35,000/- (enhanced)
For Loss of Love and affection (20,000 x 4)	Rs. 80,000/-	Rs. 80,000 (confirmed)
For Loss of Consortium	Rs. 40,000/-	Rs.80,000 (enhanced)
For Funeral Expenses	Rs. 25,000/-	Rs.25,000 (confirmed)



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<i>Heads</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
For Loss of Estate	---	Rs.15,000/-
Total	Rs. 14,95,000/-	Rs.30,35,000/-

14. Thus, this Court awards Rs.30,35,000/- 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, the apportionment is made as follows:

For 1 st claimant/ wife of the deceased	Rs.10,35,000/-
For minor claimant Nos.2 & 3/ son and daughter of the deceased	Rs.9,00,000/- (for each minor claimant)
For 4 th claimant/ mother of the deceased	Rs.2,00,000/-

15. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced from **Rs. 14,95,000/- to Rs.30,35,000/-**.
- The respondents are directed to deposit the enhanced compensation of **Rs.30,35,000/-** awarded by this Court to the credit of MCOP.No.1433 of 2021 on the file of MCOP Tribunal, Special District Court, 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



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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 1st claimant/wife is entitled to receive Rs.10,35,000/-, the minor claimant Nos 2 and 3/children are entitled for an amount of Rs.9,00,000/- each and the 4th claimant/mother is entitled to receive Rs.2,00,000/-.
- The 1st appellant/1st claimant and 4th appellant/4th claimant are at liberty to withdraw their respective shares, 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 share of the minors shall be deposited in any one of the nationalised banks till they attain majority and the interest accrued thereupon shall be permitted to be withdrawn by the mother/1st claimant once in three months.
- The appellants/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

04.11.2025

To
The MCOP Tribunal,
Special District Court, Salem



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R.KALAIMATHI J.

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