IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2370 of 2024

1. Bakkiyam
W/o. late S.L. Arumugam, Door No.126, Bhavani Main Road, Bramana Periya agraharam, Erode Taluk, Erode District-638 005

2. Abirami
W/o. Muniraj, d/o. Late S.L. Arumugam, Door No.19, pillaiyar Kovil Street, Bramana Periya Agraharam, Erode Taluk, Erode District-638 005

3. Hemalatha
W/o. Venkateshbabu, D/o. Late S.L.Arumugam, Door No.192, Velayakkara Street, Erode Taluk, Erode District

4. A Karthikeyan
S/o. Late S.L.Arumugam, Door No.126, Bhavani main Road, Bramana Periya Agraharam, Erode Taluk, Erode District-638 005

Appellant(s)

Vs

1. T.Prabhakaran
S/o. S.Thangavel, Door No.4/184-A, Subba naidu Nagar, Pethappampatti, Pethappampatti Post, Coimbatore District-642 205

2.A Kannapeeran
S/o. P.K.Aroomugam, Gajaananda jewellary mart India Pvt.Ltd., Door No.555,557 Sree Kumaran Thanga Maligai, Oppanakkara Street, Coimbatore District

3.Royal Sundaram General Insurance Company Ltd.,
Having Office at Door No.180, Race Course Road, Coimbatore District-641 018

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, prays to enhance the compensation amount awarded in the order dated 18-01-2024 made in MCOP.No.386/2020 on the file of the Special District Judge, (To deal with MCOP Cases) Erode and consequently award compensation by allowing this CMA.

For Appellant(s): Mr.M.Guruprasad

For Respondent(s): Mr.G.Vasudevan For R3
Rr1 and 2 - Dispense With

JUDGEMENT

The appellants have filed this appeal to enhance the compensation amount awarded in the order dated 18-01-2024 made in MCOP.No.386/2020 on the file of the Special District Judge, (To deal with MCOP Cases) Erode.

2. On considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs. 9,94,681/- as compensation, directing the 3rd respondent to pay the said amount to the

appellants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

3. The learned counsel for the petitioner submitted that, at the time of the accident, the deceased was aged about 62 years and was running a bleaching factory under the name and style of Sri Sastha Bleaching Factory. In support of the said contention, the petitioner produced the income tax returns as well as the registration certificate, which were marked as Ex.P11 and Ex.P12. He further submitted that the accident occurred in the year 2020 and the income tax return produced pertains to the assessment year 2019–2020.

4. On the other hand, the learned counsel appearing for the 3rd respondent contended that the award passed by the Tribunal is based on well-settled principles of law applicable at the time of the order, and no income tax returns relating to the earlier years were produced. Taking into consideration the income tax statement so produced, the Tribunal fixed the annual income at a sum of Rs.8,88,313/- and therefore, it need not be interfered.

5. However, the Tribunal took into consideration the entire gross annual income as reflected in the income tax statement. Further, the Tribunal observed

that there was no loss of business income to the family, as the son of the deceased was continuing the said business. According to the learned counsel, the continuity of the business was not properly established on the side of the claimants. Therefore, considering the pecuniary loss caused to the family, this Court is inclined to enhance the award as follows.

6. The deceased was aged about 62 years at the time of the accident, which occurred in the year 2020. Even though there is no concrete proof of income, considering the cost of living and other amenities prevailing during the relevant period, this Court is inclined to fix the notional monthly income at Rs.16,000/-.

7. The deceased died, leaving behind the appellants, who are his legal heirs, namely, his wife and 3 children. Hence, 1/3 of the income is to be deducted towards the deceased's personal expenses. The deceased was aged 62 years at the time of the accident, and as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another,*** reported in ***(2009) 6 SCC 121,*** the proper multiplier to be adopted in the instance case is 7. The compensation awarded under the other heads by the Tribunal is confirmed. At the time of the accident, the deceased was not wearing a helmet. For the said reason, the Tribunal fixed 15% contributory negligence on the part of the

deceased. The same is modified and reduced to 10% contributory negligence on the side of the deceased.

8. Calculation

Notional Income = Rs.16,000/-
After 1/3 deduction = 16,000 – 5,333= Rs.10,667/-
Loss of dependency
= Rs.10,667 x 12 x 7
= Rs.8,96,028/-

9. 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.	Pecuniary loss of business	8,88,313	8,96,028
2.	Loss of spouse Consortium	48,400	48,400
3.	Loss of parental consortium	1,45,200	1,45,200
4.	Funeral Expenses	18,150	18,150
5.	Loss of estate	18,150	18,150
6.	Damage to cloth and articles	2,000	2,000
7.	Pain and sufferings	50,000	50,000
	Total	11,70,213	11,77,928
	Less contributory negligence	1,75,532	1,17,793
	Total	9,94,681	10,60,135

Thus, the compensation awarded by the Tribunal is enhanced from Rs.9,94,681/- to Rs.10,60,135/-, which shall carry interest at the rate of 7.5% per annum.

10. **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.9,94,681/- to Rs.10,60,135/-.

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 receipt of the court fee.

iv. The 3rd respondent is directed to pay the enhanced compensation amount of Rs.10,60,135/- (after deducting any amount already deposited), along 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. 386 of 2020 on the file of the Special District Judge, (To deal with MCOP Cases) Erode, within a period of six weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made by the 3rd respondent, the appellants/claimants are at liberty to withdraw the same as per the apportionment made by the Tribunal, after following due process of law.

11-08-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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To

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4.The Special District Judge, (To deal with MCOP Cases) Erode.

T.V.THAMILSELVI J.
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