



CMA.Nos.2879 of 2014 & 3788 of 2012

M.DHANDAPANI, J.

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, though the claimants as well as the insurance company have challenged the order of the tribunal dated 29.02.2012 made in MACTOP.No.1410 of 2008 on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Coimbatore before this Court and this Court, vide common judgment dated 30.01.2025, allowed the appeal filed by the claimants in part by enhancing the compensation from Rs.9,77,000/- to Rs.19,03,600/- and dismissed the appeal filed by the insurance company, however, in paragraph No.15 of the said common order dated 30.01.2025, it has been wrongly mentioned as if the appeals filed by the claimants as well as the insurance company have been allowed in part.

3. This Court perused the order dated 30.01.2025, particularly, para 15



of the said order and also the above submissions, and as no relief has been granted to the insurance company in the appeal filed by the insurer in CMA.No.3788 of 2012, it has to be dismissed. However, inadvertently it has been wrongly mentioned as if the appeal filed by the insurer is also allowed in part, which requires to be modified.

4. In view of the above, Paragraph 15 of the order dated 30.01.2025 shall stand replaced with the following paragraph:

“15. Accordingly, the Civil Miscellaneous appeal in CMA.No.3788 of 2012 filed by the insurer stands dismissed and the appeal in CMA.No.2879 of 2014 filed by the claimants stands allowed in part and the impugned Award of the Tribunal is modified by enhancing the compensation amount from Rs.9,77,000/-(which has been wrongly stated in the impugned award as Rs.9,17,000/-) to Rs.19,03,600/-. The 3rd respondent/insurance company is directed to deposit the said enhanced amount to the credit of MACTOP.No.1410 of 2008 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. In the above compensation, the 1st appellant is entitled to a sum of Rs.10,03,600/-, the 2nd appellant is entitled to a sum of Rs.7,00,000/-



and the 3rd and 4th appellants are entitled to a sum of Rs.1,00,000/- each. On such deposit being made, the Tribunal is directed to transfer the above amount apportioned to the share of the respective appellants/claimants by this Court, directly to the bank account of the appellants through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee for the enhanced compensation amount. It is underscored that the appellants/claimants are not entitled to any interest for the default period, if any. There shall be no order as to costs in the present appeals.”

5. All the other observations made in the earlier order dated 30.01.2025 shall remain intact.

6. Registry is directed to carry out the necessary correction as aforesaid in the order dated 30.01.2025 and issue fresh copy of the order to the learned counsel for the parties.

10.09.2025

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M.DHANDAPANI, J.



CMA.Nos.2879 of 2014 & 3788 of 2012

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CMA.Nos.2879 of 2014 & 3788 of 2012

10.09.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2025



CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.Nos.2879 of 2014 & 3788 of 2012

1. B.Manjula Devi
2. V.Balakrishnan
3. B.Kalaivani
4. B.Saravanan ...Appellants in CMA.No.2879 of 2014

The Managing Director,
ICICI Lombard General Insurance Company Limited,
1st Floor, 'Vigneshwar Cresta' 1095,
Avinashi Road, Pappanciakenpalayam,
Coimbatore. ...Appellant in CMA.No.3788 of 2012

Vs.

1. Ravikumar
2. Chinnammal
3. Managing Director,
ICICI Lombard General Insurance Company Limited,
1st Floor, 'Vigneshwar Cresta' 1095,
Avinashi Road, Pappanciakenpalayam,
Coimbatore. ...Respondents in CMA.No.2879 of 2014

1. B.Manjula Devi
2. V.Balakrishnan
3. B.Kalaivani



4. B.Saravanan

5. Ravikumar

6. Chinnamal ...Respondents in CMA.No.3788 of 2012

Prayer in CMA.No.2879 of 2014: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the decree and judgment in MACTOP.No.1410 of 2008, dated 29.02.2012, on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Coimbatore.

Prayer in CMA.No.3788 of 2012: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the decree and judgment in MACTOP.No.1410 of 2008, dated 29.02.2012, on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Coimbatore.

In CMA.No.2879 of 2014:

For Appellants : Mr.K.M.D.Muhilan
for Mrs.M.Thenmozhi

For Respondents : Ms.Sreevidhya, for R3

In CMA.No.3788 of 2012:

For Appellant : Ms.Sreevidhya

For Respondents : Mr.K.M.D.Muhilan
for Mrs.M.Thenmozhi

COMMON JUDGEMENT

Since both the appeals are arising out of the very same accident, they are



disposed of by way of this common judgment.

2. Challenging the decree and judgment made in MACTOP.No.1410 of 2008 dated 29.02.2012, on the file of the Motor Accident Claims Tribunal, I Additional District Judge, Coimbatore, both the claimants as well as the insurance company have filed the respective appeals before this Court.

3. For the sake of convenience, the parties are referred to as per their array in CMA.No.2879 of 2014.

4. The case of the appellants/claimants is that, on 24.10.2007 at about 4.50 p.m., when the deceased Narendra Prabhu was riding a TVS victor bearing Regn.No.TN-10-H-2536 from north to south in Vadavalli-Perur road, near Kolarampathy, at that time, a mini bus bearing Regn.No.TN-63-6611 driven by the 1st respondent owned by the 2nd respondent insured with the 3rd respondent came in the opposite direction in a rash and negligent manner and dashed against the above said TVS victor, due to which, the deceased sustained grievous injuries and succumbed to the same. Thereby, the



appellants/claimants filed a claim petition claiming a compensation of Rs.52,82,000/-. Before the tribunal, the appellants/claimants examined three witnesses viz., P.W.1 to P.W.3 and marked Exs.P.1 to Ex.P.8 and the respondents examined two witnesses viz., R.W.1 and R.W.2 and marked exhibits R.1 to R.12. After adjudication, the Tribunal awarded a sum of Rs.9,17,000/- towards compensation for the death of the deceased Narendra Prabhu in favour of the appellants/claimants jointly and severally payable by the respondents 1 to 3. Aggrieved by the same, the claimants have filed CMA.No.2879 of 2014 and the 3rd respondent-insurer has come up with the appeal in CMA.No.3788 of 2012.

5. Learned counsel for the appellants/claimants submitted that, the tribunal, after careful consideration of the material documents placed before it had fixed the entire negligence on the part of the 1st respondent, which need not be interfered with. At the same time, at the time of accident, the age of the deceased was only 26 years and he was working as a Medical Representative and was earning a sum of Rs.12,650/-. However, without considering the same, the Tribunal had fixed a sum of Rs.12,100/- as notional income of the deceased



which is very meagre. That apart, the compensation awarded by the tribunal under the other heads are also on the lower side and the same has to necessarily be enhanced. Accordingly, he prays for appropriate orders.

6. Per contra, the learned counsel appearing on behalf of the 3rd respondent-insurer submitted that, at the time of accident, the deceased was aged about 26 years and was a Medical representative by profession, however, the tribunal had erroneously added 50% towards future prospects, which needs to be reduced and the compensation awarded by the tribunal under various heads are also on the higher side, which has to necessarily be interfered with. Learned counsel further submitted that, the above said accident had taken place solely due to the rash and negligent driving on the part of the deceased, however, the tribunal had failed to fix any contributory negligence on the part of the deceased, which is wholly unsustainable. Accordingly, she prayed for appropriate orders.

7. Heard the learned counsel on either side and perused the materials available on record.



8. The factum and manner of the accident is not in dispute and therefore, this Court is not entering into the said aspect and the major grievance of the appellants/claimants is with regard to the quantum of compensation awarded by the tribunal. It is the claim of the appellants that, the accident is of the year 2007 and at the time of accident, the deceased was aged about only 26 years and he was a Medical representative by profession, however, the tribunal had fixed the notional income of the deceased as Rs.12,100/-, which is very meagre and the tribunal had erroneously fixed the multiplier of 8, which has to be modified. On the other hand, it is the claim of the 3rd respondent-insurer that the notional income of Rs.12,100/- fixed by the tribunal and adding of 50% towards future prospects are on the higher side and the same has to be reduced.

9. In this regard, this Court perused the materials available on record particularly the impugned award and on perusal of the same, it is evident that, the deceased was aged about 26 years, and as per the ratio laid down by the Hon'ble Supreme Court in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in *2017 (16) Supreme Court Cases 680*, the proper percentage of future prospects to be added is 40%, however, the



tribunal had erroneously added 50% towards future prospects, which has to be modified. Further, as per the ratio laid down by the Hon'ble Supreme Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in **2014 (1) TANMAC 459**, fixing a notional income of Rs.12,000/- and adding future prospects at 40%, as has been held above, the income per month is quantified at Rs.16,800/-. Deducting 50% towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.8,400/- per month and the deceased being aged about 26 years, as evidenced from the records, adopting the multiplier of 17 as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** Reported in **(2009) 6 SCC 121**, the loss of income to the family is arrived at $\text{Rs.8,400/-} \times 12 \times 17 = \text{Rs.17,13,600/-}$.

10. Though the tribunal has awarded a sum of Rs.60,000/- and Rs.40,000/- under the heads Loss of love and affection and Mental agony respectively. However, while calculating the total compensation the tribunal had erred in the compensation awarded under the said heads, and as a result, the total compensation has been wrongly calculated as Rs.9,17,000/- instead of Rs.9,77,000/-. However, in view of the fact that this Court is of the view that



the compensation awarded under the said heads are erroneous, this Court proceeds to consider the compensation under the various heads without reference to the compensation awarded by the tribunal.

11. Insofar as the compensation awarded under the head loss of love and affection is concerned, the tribunal had awarded a sum of Rs.60,000/-, which is on the lower side and thereby, the same is enhanced to Rs.1,60,000/-. Further, no compensation has been awarded under the head Loss of estate. Hence, this Court awards a sum of Rs.15,000/- under the said head. Further, the tribunal had awarded a sum of Rs.5,000/- under the head Funeral expenses, which is on the lower side and thereby, the same is enhanced to Rs.15,000/-. At the same time, a sum of Rs.40,000/- has been awarded under the head Mental agony, which is not sustainable, since already compensation has been awarded under the head Loss of love and affection and thereby, the same is set aside. Further, in view of the above said error in the compensation awarded by the tribunal, though the total compensation awarded by the tribunal comes to Rs.9,77,000/-, however, the same was erroneously mentioned as Rs.9,17,000/-.



12. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of income	8,72,000/-	17,13,600/-
Loss of love and affection	60,000/-	1,60,000/-
Mental agony	40,000/-	-
Funeral Expenses	5,000/-	15,000/-
Loss of estate	-	15,000/-
Total	9,77,000/-	19,03,600/-

13. Insofar as the negligence fixed by the tribunal is concerned, in order to prove the rash and negligence on the part of the 1st respondent/driver of the 2nd respondent vehicle, insured with the 3rd respondent, the claimants examined an individual eye witness as P.W.2 before the tribunal, who had clearly deposed the manner in which the accident had happened and stated that the accident had happened solely due to the rash and negligent driving on the part of the 1st respondent, however, no contra evidence has been adduced either by the 2nd respondent/owner or by the 3rd respondent/Insurance Company in order to disprove the case of the claimants. In the absence of any contra evidence, the



Tribunal, after considering the oral and documentary evidences, has rightly fixed the negligence on the part of the 1st respondent/driver and the said findings of the Tribunal cannot be interfered with. Therefore, this Court confirms the negligence and liability fixed by the tribunal.

14. At the same time, it has been the consistent view of this Court that, an award of interest at 7.5% would be just and reasonable for the accident which has happened in the year 2007 and thereby, the interest of 9% awarded by the tribunal is modified and the compensation fixed by this Court at Rs.18,23,600/- will carry interest at the rate of 7.5% per annum from the date of petition till the date of realization.

15. Accordingly, the Civil Miscellaneous appeal in CMA.No.2879 of 2014 filed by the claimants as well as the Civil Miscellaneous appeal in CMA.No.3788 of 2012 filed by the insurer are allowed in part and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.9,77,000/-**(which has been wrongly stated in the impugned award as Rs.9,17,000/-) to **Rs.19,03,600/-**. The 3rd respondent/insurance



company is directed to deposit the said enhanced amount to the credit of MACTOP.No.1410 of 2008 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. In the above compensation, the 1st appellant is entitled to a sum of Rs.10,03,600/-, the 2nd appellant is entitled to a sum of Rs.7,00,000/- and the 3rd and 4th appellants are entitled to a sum of Rs.1,00,000/- each. On such deposit being made, the Tribunal is directed to transfer the above amount apportioned to the share of the respective appellants/claimants by this Court, directly to the bank account of the appellants through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee for the enhanced compensation amount. It is underscored that the appellants/claimants are not entitled to any interest for the default period, if any. There shall be no order as to costs in the present appeals.

30.01.2025
(3/3)

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CMA.Nos.2879 of 2014 & 3788 of 2012

Index : Yes / No
Speaking Order : Yes / No
NCC : Yes / No

To:

1. The Motor Accident Claims Tribunal,
I Additional District Judge, Coimbatore.
2. The Section Officer,
V.R. Section, High Court of Madras.



CMA.Nos.2879 of 2014 & 3788 of 2012

M.DHANDAPANI, J.

skt

CMA.Nos.2879 of 2014 & 3788 of 2012
(3/3)

30.01.2025
MP.No.1 of 2015



CMA.Nos.2879 of 2014 & 3788 of 2012

in CMP.SR.No.93924 of 2013
in CMA.No.3788 of 2012

M.DHANDAPANI, J.

This petition has been filed to condone the delay of 300 days in representing the restoration petition in CMP.SR.No.93924 of 2013.

2. Heard learned counsel on either side.

3. Being satisfied with the reasons stated in the affidavit filed in support of this petition, this Court is inclined to order this petition.

4. Accordingly this petition is allowed. Registry is directed to number the restoration petition.

30.01.2025
(1/3)

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CMP.No.9724 of 2025
in
CMA.No.3788 of 2012



CMA.Nos.2879 of 2014 & 3788 of 2012

M.DHANDAPANI, J.

This petition is filed seeking to restore the Civil Miscellaneous appeal by setting aside the judgment dated 27.09.2013 passed in CMA.No.3788 of 2012.

2. Heard the learned counsel on either side.

3. Being satisfied with the reasons stated in the affidavit filed in support of the petition, this petition is ordered and the CMA.No.3788 of 2012 is restored to file.

30.01.2025
(2/3)

skt