



C.M.A.No.1833 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No.1833 of 2025

and

C.M.P.No.16122 of 2025

The Manager,
United India Insurance Co. Ltd.,
Motor Third Party Hub, 4th Floor,
Silingi Buildings, 134, Greams Road,
Thousand Lights, Chennai – 600 006.

... Appellant

vs.

1.M.Bhuvaneswari
2.R.Padmavathi
3.A.Ramalingam
4.K.P.Natarjan

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Award dated 30.08.2023 passed in MCOP No.5395 of 2016 on the file of the Motor Accident Claims Tribunal / II Judge, Court of Small Causes, Chennai.

For Appellants : Mr.D.Bhaskaran

For Respondents

For RR2 & 3 : Mr.R.Kalaiarasan

R4 : Notice to R4 is dispensed with

For R1 : No appearance



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J U D G M E N T

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This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the Award dated 30.08.2023 passed in M.C.O.P.No.5395 of 2016 by the Motor Accident Claims Tribunal / II Judge, Court of Small Causes, Chennai, for a change in the quantum of compensation.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. Heard the learned counsel for the appellant/Insurance Company and the learned counsel for the respondents 2 and 3/claimants 2 and 3.

4. Claim Petition was filed by the legal heirs of the deceased Vijayasekaran, under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.1,25,00,000/-, for the death of the deceased Vijayasekaran, in a road traffic accident that occurred on 22.05.2016.

5. At trial, to substantiate the claim on the claimants' side, three witnesses were examined and twenty two documents were marked. On the side of the appellant / Insurance Company, no evidence was let it.

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6. The Tribunal, upon consideration of oral and documentary evidence and after hearing the arguments advanced by either side, granted compensation of Rs.59,90,600/- with interest at the rate of 7.5% per annum from the date of claim petition. The amounts granted under different heads are given hereunder:-

“Towards loss of dependency – Rs.59,13,600/-, towards loss of Consortium – Rs.44,000/-, towards loss of estate – Rs.16,500/- and towards funeral expenses – Rs.16,500/- in total a sum of Rs.59,90,600/- was awarded.”

7. The learned counsel for the appellant / Insurance Company would vehemently argue that the deceased was stated to be earning a sum of Rs.5,30,000/- per annum. However, the Tribunal fixed his monthly income at Rs.44,000/- based on Ex.P.6, the copy of the appointment letter, and Ex.P.7, the copy of the bank statement, and accordingly computed the loss of dependency at Rs.59,13,600/- is incorrect. He would further contended that though the compensation amount is taxable, the Tribunal failed to deduct income tax, which, according to him, is incorrect.

8. Per contra, the learned counsel for the respondents/claimants



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would submit that the Tribunal, based on Exs.P.6 and P.7, fixed the monthly income at Rs.44,000/- is correct. By adding 40% of the said amount towards future prospects and applying multiplier of 16m based on the age of the deceased, the Tribunal rightly arrived at the loss of dependency at Rs.59,13,600/-. He would further argue that the amounts awarded under various heads are reasonable and therefore, according to him, it does not call for any interference by this Court.

9. It has come on record through the evidence of P.W.1/the second claimant, that the deceased was working as a Senior IT Analyst in M/s. Synowledge India Private Limited and was earning a sum of Rs.5,30,000/- per annum, in addition to performance incentive of Rs.30,000/- per month. To substantiate these details, Ex.P.6, the appointment letter, and Ex.P.7, the bank statement of the deceased, were marked. As per Ex.P.7 bank statement, a sum of Rs.56,513/- was credited on 29.02.2016, Rs.44,257/- on 30.03.2016, and Rs.40,816/- on 29.04.2016 into the bank account of the deceased from the said company.

10. The components of the salary that are beneficial to the family have to be considered as income for the purpose of computing loss of dependency. In this case, the employer of the deceased was not examined

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to substantiate these details and on the claimants' side, the pay slip of the deceased was not marked. In such circumstances, this Court deems fit to fix at Rs. 40,000/-. With regard to the deduction of income tax, it is relevant to refer to the observations of the Hon'ble Supreme Court in *Sarla Verma and Others v. Delhi Transport Corporation and Another*, 2009 (2) TN MAC 1 (SC), this Court held:

“20. Generally the actual income of the deceased less income tax should be the starting point for calculating the compensation.

24.... where the annual income is in taxable range, the word “actual salary” should be read as “actual salary less tax”.

11. As regards the age of the deceased, P.W1 would state that, at the relevant point of time, he was 32 years of age. As per Ex.P2 – Post Mortem Certificate, age of the deceased is mentioned as 32 years. Ex.P4 is the Birth extract copy of the deceased (Date of Birth 11.02.1984). As the date of accident is 22.05.2016, age of the deceased is taken at 32 years. As held by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi and Others*, 2017 (2) TN MAC 609 (SC)**, a standard addition to the income towards future prospects is required while computing loss of dependency. For a person below 40 years of age, 40% of the income is to be added towards future prospects.



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12. Further, as held in **Sarla Verma and Others v. Delhi Transport**

Corporation and Another, 2009 (2) TN MAC 1 (SC), where the claimants are three in number, 1/3rd of the income has to be deducted towards personal and living expenses, and the relevant multiplier is 16m. Based on the aforesaid details, for computing loss of dependency, the following formula emerges:

$$\text{Rs.40,000/-} + 40\% - 1/3 \times 12 \times 16\text{m} = \text{Rs.71,67,936/-}$$

13. Had the income tax returns of the deceased been filed, it would have enabled the Tribunal to deduct the income tax. In the absence of income tax returns and as the annual income comes under the taxable range, the Court has to assume the income tax accordingly. In such a view of the matter, this Court deems fit to deduct the income tax at 20%. After deducting the income tax at 20%, the loss of dependency comes to Rs.57,34,349/-.

14. It appears that the first claimant, who is the wife of the deceased, remarried after the death of the deceased, as per the evidence of P.W.2, Mr.A.Manoharan, who is the father of the first claimant. The claimants no.2 and 3 are the father and mother of the deceased. Towards loss of consortium, a sum of Rs.36,000/- is granted in addition to the amount

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already granted by the Tribunal. As regards the other heads, the amounts granted by the Tribunal appear to be reasonable and acceptable and they do not call for any interference by this Court. The compensation awarded as mentioned supra is reworked and tabulated as given hereunder:-

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Towards Loss of dependency	Rs.59,13,600/-	Rs.57,34,349/- (less I.T)	Reduced
2	Towards Loss of consortium	Rs. 44,000/-	Rs. 80,000/-	Enhanced
3	Towards Loss of estate	Rs. 16,500/-	Rs. 16,500/-	Confirmed
4	Towards Funeral expenses	Rs. 16,500/-	Rs. 16,500/-	Confirmed
	Total	Rs.59,90,600/-	Rs.58,47,349/-	Reduced

Rounded off to Rs.58,47,400/-

15. Thus, the compensation awarded by the Tribunal is reduced from **Rs.59,90,600/-** to **Rs.58,47,400/-** which would carry interest at the rate of 7.5% per annum.

16. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. There is no order



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as to costs.

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(ii) The Compensation awarded by the Tribunal is reduced from

Rs.59,90,600/- to Rs.58,47,400/-.

(iii) The Appellant / Insurance Company is directed to deposit the modified compensation amount i.e., **Rs.58,47,400/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of filing of petition till the date of realisation to the credit of MCOP No.5395 of 2016 on the file of the Motor Accident Claims Tribunal / the II Judge, Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the second claimant is entitled to get a sum of Rs.31,47,400/- and the third claimant is entitled to get to Rs.27,00,000/-. As against the first claimant, the claim petition stood dismissed and the same is confirmed, as she remarried after the death of her husband. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No

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1. The II Judge, Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section,
Madras High Court,
Madras.



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R.KALAIMATHI,J.,

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