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CMA No. 1492 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1492 of 2025

- 1.Valliyammal
- 2.Jayasri
- 3.Deepika

Appellant(s)

Vs

1.A.Muhammed Thameema Noor,
S/o. Ashraf Ahmed.

2.Reliance General Insurance Co.Ltd.,
D.O:T.P.Cell: Building NO.(10 & 11).
No.13, 5th Floor, Chennai CITI Centre,
Dr.Radhakrishnan Salai, Mylapore,
Chennai-600 004.

Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to allow the appeal by enhancing the award made in MCOP.No.269/2024 dated 03-02-2025 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court, Chennai.



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For Appellant(s): M/s. D.Poovannan

For Respondent(s): R1 - Dispensed With
Mr. P. Suresh Srinivasan For R2

JUDGMENT

The appellants have filed this appeal against the award passed in M.C.O.P. No. 269 of 2024 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.1, Motor Accidents Claim Petitions), Small Causes Court, Chennai, dated 03.02.2025.

2. The brief facts of the case of the appellants/claimants are as follows:

On 21.11.2023, at about 08.15 hours, while the deceased was walking as a pedestrian on the Sothupakkam – Vandavasi Road, opposite to Nithiya Store, Ramapuram, a car bearing Registration No. TN-07-DB-4080, which was being driven by its driver at a very high speed in a rash and negligent manner from the opposite direction, came and dashed against the deceased. As a result, the deceased sustained multiple grievous injuries all over the body and died on the spot. The accident occurred solely due to the rash and negligent driving of the driver of the car bearing Registration No. TN-07-DB-4080. The 1st respondent



is the owner of the said car, and the 2nd respondent is the insurer of the vehicle.

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3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.14,61,800/- as compensation, directing the 2nd 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).

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimants) have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr. D.Poovannan, learned counsel appearing for the appellants, and Mr. P. Suresh Srinivasan, learned counsel appearing for the 2nd respondent.



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6. The learned counsel for the appellants submitted that the deceased was employed as a Rice mill worker and earning Rs. 1,500/- per day. However, the Tribunal erroneously considered only salary of Rs. 13,500/- per month. Furthermore, the deceased was aged about 53 years at the time of the accident, which was not taken into account while awarding compensation and prayed for enhancement.

7. On the other hand, the learned counsel appearing for the 2nd respondent contended that personal allowances were deducted, and the Tribunal rightly fixed the monthly salary at Rs. 13,500/-. He further submitted that the amount awarded under the head of loss of consortium is sustainable and prayed for dismissal of the appeal as devoid of merit.

8. On considering the submissions of both parties and on perusal of the records, it is evident that the deceased was working as a Rice mill worker and earning Rs. 1,500/- per day. However, considering the cost of living in the year

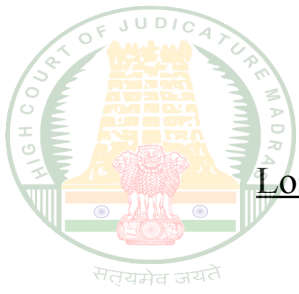


2023, this Court is inclined to fix the monthly income of the deceased at Rs.20,000/-.

9. As per the decision of the Hon'ble Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi and Others*, reported in 2017 (2) TN MAC 601, 10% is to be added towards future prospects. The deceased died leaving behind his legal heirs, his wife, two daughters. Hence, 1/3th of the income is to be deducted towards personal expenses. The deceased was aged 53 years at the time of the accident, and as per the judgment in *Sarla Verma & Others v. Delhi Transport Corporation & Another*, (2009) 6 SCC 121, the appropriate multiplier is 11.

10. Calculation:

- Notional Income: Rs. 20,000/-
- 10% Future Prospects: Rs. 20,000 + 2,000 = Rs. 22,000/-
- After 1/3 Deduction: Rs. 22,000 - 7333 = Rs. 14,667/-



Loss of Dependency: Rs. $14,667 \times 12 \times 11$ = Rs. 19,36,044/-

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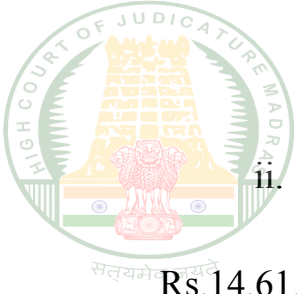
11. The following table sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court:

<i>Sl. No</i>	<i>Heads</i>	<i>Amount Awarded by Tribunal</i>	<i>Amount Awarded by High Court</i>
1.	Loss of Dependency	Rs. 13,06,800	Rs. 19,36,044
2.	Loss of Consortium	Rs. 1,20,000	Rs. 1,20,000
3.	Loss of Estate	Rs. 15,000	Rs. 15,000
4.	Funeral Expenses	Rs. 15,000	Rs. 15,000
5.	Transport Charges	Rs. 5,000	Rs. 5,000
	Total	Rs. 14,61,800	Rs. 20,91,044

Thus, the compensation awarded by the Tribunal is enhanced from Rs. 14,61,800/- to Rs. 20,91,044/-, which shall carry interest at the rate of 7.5% per annum.

12. In the result:

i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.



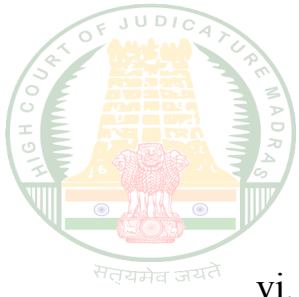
ii. The compensation awarded by the Tribunal is enhanced from Rs.14,61,800/- to Rs. 20,91,044/-.

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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 2nd respondent is directed to pay the enhanced compensation amount of Rs.20,91,044/- (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. 269 of 2024 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.1, Motor Accidents Claim Petitions) Small Causes Court, Chennai, within a period of four weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made by the 2nd 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.



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vi. The appellants/claimants shall not be entitled to claim interest for any period of delay, if any, in filing this appeal.

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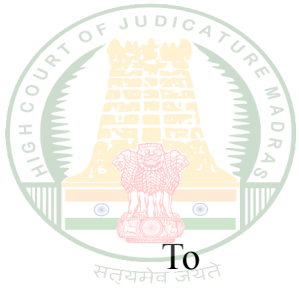
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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1. The Motor Accident Claims Tribunal
(Special Sub Court No.1, Motor
Accidents Claims Petitions)
Small Causes Court, Chennai.

2. Reliance General Insurance Co. Ltd.,
D.O.TP Cell Building No.10 and 11,
No.13, 5th Floor, Chennai CITI Centre,
Dr. Radhakrishnan Salai, Mylapore,
Chennai-600 004.



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