



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2025

CORAM:

THE HON'BLE MRS. JUSTICE R. KALAIMATHI

CMA.No.2855 of 2025

1. Munirathinamma
2. Ellappa

... Appellants

Vs.

1. Inayathullah
2. Devaraj
3. ICICI Lombard General Insurance
Co. Ltd.,
office situated at ICICI Lombard House,
No.414-Veerasavarkar Marg,
near Siddhi Vinayaka Temple,
Prabadevi, Mumbai 25.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under sec.173 of Motor Vehicles Act, to enhance the compensation amount and fix the entire liability on 3rd respondent made in the Order dated 21.08.2023 made in MCOP.No.481 of 2017 on the file of the MACT Tribunal / Addl. District Court, Hosur.

For Appellant : Mr.S.P.Yuvaraj

For Respondents : Mrs.R.Srividhya for R3
R1 and R2-notice dispensed with



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JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the legal heirs of the deceased Prasanth Kumar @ Gowrish, against the Award dated 21.08.2023 made in MCOP.No.481 of 2017 on the file of Motor Accident Claims Tribunal/Addl. District Court, Hosur for enhancing the compensation.

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

3. The legal heirs of the deceased Prasanth Kumar @ Gowrish had filed claim petition under section 166 of the Motor Vehicles Act, claiming compensation of Rs.20 lakhs from the respondents for the death of Prasanth Kumar in a road traffic accident that took place on 28.06.2015.

4. The Tribunal upon consideration of entire case records granted compensation of Rs.7,93,804/- after deducting 25% towards the contributory negligence fixed upon of the deceased. The amounts awarded by the Tribunal under various heads are given hereunder:



S. No	Heads	Compensation granted by the Tribunal (in Rs.)
1	For Loss of dependency	9,07,200/-
2	For transportation	5,000/-
3	For funeral expenses	15,000/-
4	For Loss of Estate	15,000/-
5	For parental consortium	80,000/-
6	For medical expenses	36,206/-
	Total compensation awarded	10,58,106/-
	Less: Contributory negligence of deceased 25%	2,64,602/-
	Net compensation	7,93,804/-

5. Learned counsel for the appellant would strenuously argue that the deceased died due to the accident at the age of 16 years. The notional income of the deceased fixed at Rs.6000/- by the Tribunal is grossly inadequate. It was further put forth by the learned counsel that when the deceased minor was riding a motor cycle, he was hit by a Tempo van, due to which, the deceased sustained fatal injuries and succumbed to injuries. The fixation of contributory negligence at 25% on the deceased by the Tribunal is totally incorrect. Hence, he sought for enhancement of compensation granted by the Tribunal.

6. Per contra, the learned counsel for the 2nd respondent/Insurance Company would contend that the notional income fixed by the Tribunal is



reasonable. He further submitted that the deceased drove his motor cycle without Driving Licence at the relevant point of time and it is also one of the reasons for the occurrence of the accident and hence deducting 25% from the total compensation towards contributory negligence of the deceased is correct and the said deduction cannot be said to be incorrect.

7. It has come on record through the evidence of PW1 that the deceased Prasanth Kumar @ Gowrish, son of Ellappa was studying at 11th standard and was helping his parents in milk business and was earning a sum of Rs.9000/- per month. As per Ex.P.5 Aadhar Card, age of the deceased was taken as 16 years. To substantiate the income of the deceased, no document was marked, however in consideration of the age, date of the accident and other details as mentioned supra, this Court deems fit to fix the notional income of the deceased at Rs.9000/- per month.

8. As per the law laid down by the Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation and others (2009) 2 TNMAC 1 SC**, the relevant multiplier to be selected is 18m. The claimants are two in number. Hence, 50% has to be deducted towards the personal and living expenses of the deceased. As held in **National Insurance Company Vs. Pranay Sethi and others (2017) 2 TNMAC 609 SC**, for future prospectus,



40% has to be added while computing the loss of dependency and in this regard, the following formula emerges:

$$\text{Rs. } 9000 + 40\% - 50\% \times 12 \times 18\text{m} = \text{Rs. } 13,60,800/-$$

9. On the basis of the evidence of PW1 to the effect that the deceased had no Driving Licence at the relevant point of time, 25% of contributory negligence was fixed upon the deceased. The question of contributory negligence would come into play when the relevant party is found to be negligent and he should have contributed to the accident. Admittedly, the deceased was a minor at the relevant point of time. PW2-Muniyappa is the only ocular witness to speak about the accident. It is the candid evidence that due to the rash and negligent driving of the driver of 407 Tempo, the accident occurred and his evidence remains unimpeached.

10. Moreso, no ocular evidence was examined on the side of Insurance Company. Therefore, from the evidence of PW2, it is not discernable that the deceased rode his motor cycle in a rash and negligent manner and thereby contributed to the accident. The claimants having established the fact that due to the rash and negligent driving of the driver of 407 Tempo van, the accident had occurred, therefore, fixing of contributory negligence towards the deceased



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two wheeler rider is incorrect and the said finding is set aside.

11. As regards the other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable and hence, it does not warrant any interference by this Court. The amounts as mentioned supra after re-work are tabulated hereunder:

S. No	Heads	Tribunal	This Court	
1	For Loss of Dependency	9,07,200	13,60,800	Enhanced
2	Transport Charges	5,000	5,000	Confirmed
3	For Funeral Expenses	15,000	15,000	Confirmed
4	For Loss of Estate	15,000	15,000	Confirmed
5	For Parental Consortium	80,000	80,000	Confirmed
6	For Medical Expenses	36,206	36,206	Confirmed
	Total	10,58,406	15,12,006	enhanced
	Contributory negligence 25%	2,64,602	----	Set aside
		7,93,804	15,12,000	enhanced

12. Thus, this court awards Rs.15,12,000/- as enhanced compensation to the claimants along with interest at the rate of 7.5% from the date of petition till the date of realisation. Out of the compensation awarded by this court, the 1st appellant is entitled to Rs.8,00,000/- along with interest and costs and the 2nd appellant is entitled to Rs.7,12,000/- along with interest and



13. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced from **7,93,804/- to Rs.15,12,000/-** along with interest at the rate of 7.5% per annum.
- The 3rd respondent/Insurance Company is directed to deposit the enhanced compensation of Rs.15,12,000/- awarded by this Court to the credit of MCOP.No.481 of 2017 on the file of MACT Tribunal, Addl. District Court, Hosur, 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 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 appellant is permitted to withdraw a sum of Rs.8,00,000/- along with interest and costs and the 2nd appellant is permitted to withdraw a sum of Rs.7,12,000/- along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.
- The claimants are directed to pay the court fee for the enhanced compensation amount, if required. The Tribunal



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shall disburse the enhanced amount upon production of the certified copy showing proof of payment of court fee by the claimants/appellants.

msr

27.11.2025

Index:Yes/No

Internet:Yes

To

The MACT Tribunal, Addl. District Court, Hosur.



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R. KALAIMATHI, J.

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