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CMA No.374 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 13.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.374 of 2025

1. Rajalakshmi
2. Sarala
3. Santhi

...Appellants

VS.

1. Dhakshayani Ganesh Babu
2. The Divisional Manager,
Oriental Insurance Company Ltd.,
Ground Floor, D.No. 58-8-16(3), BM Apartments,
Ramakurivani Street, Santhapeta,
Ongole 523 011.

... Respondents

Prayer: The Civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging judgment and decree dated 06.11.2015 made in MCOP No.288 of 2015 on the file of the Special District Judge Motor Accident Claims Tribunal, Krishnagiri

For Petitioner : Mr.S.P.Yuvaraj

For Respondents : Mr.J.Chandran for second respondent



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JUDGMENT

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Aggrieved by the quantum of compensation granted by the Tribunal in MCOP No.288 of 2015 on the file of Special District Judge, Motor Accident Claims Tribunal, Krishnagiri, dated 06.11.2015, the claimant has come before this court by filing the instant appeal.

2. It is not in dispute that the son of the first appellant/ first claimant and the brother of the appellants 2 and 3/claimants 2 and 3 died in a motor accident that had taken place on 21.01.2015. It is the case of the appellants/claimants that a tanker lorry owned by the first respondent and insured with the second respondent was driven by its driver in a rash and negligent manner and the same had caused the accident. Both the learned counsel for the appellants and the second respondent have not advanced any arguments on the question of negligence as well as liability. Therefore, the facts necessary for deciding those questions are not discussed in this appeal and the same is confined only to the quantum.



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3. The learned counsel for the appellants/claimants submits that the accident had taken place on 21.01.2015 and the Tribunal fixed a sum of Rs.9,000/- as income of the deceased, which is very much on lower side. He further submits that the Tribunal granted only a sum of Rs.25,000/- each towards love and affection to the claimants and the same requires enhancement.

4. The learned counsel for the second respondent/ insurance company would submit that the claimants have failed to produce any document to show the income of the deceased and hence, the Tribunal was justified in fixing a sum of Rs.9,000/- per month as notional income of the deceased. Therefore, he prayed for dismissal of the appeal.

5. The first appellant/first claimant, mother of the deceased was examined as PW1 and yet another eye witness to the accident was examined as PW2. As per the averment in the claim petition as well as the evidence of PW1, the deceased was employed as a temple Priest and he was earning a sum of Rs.20,000/- per month at the time of



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accident. The claimants have not produced any documentary evidence to establish the income of the deceased. In such circumstances, the Tribunal fixed notional income of the deceased at Rs.9,000/-. However, taking into consideration the fact that accident had occurred in the year 2015, this court feels that a sum of Rs.9,000/- fixed by the Tribunal as notional income of the deceased is very much lower side. Therefore, this court is inclined to fix notional income of the deceased at Rs.15,000/- per month.

6. It is not in dispute that the deceased was a bachelor at the time of accident. Therefore, the Tribunal ought to have deducted 50% of the income towards personal expenses, instead of 1/3.

7. Having regard to the fact that age of the deceased was 34 years, future prospects shall be 40% of the income. Therefore, by applying proper multiplier 16, the claimants are entitled to a sum of Rs.20,16,000/- $(15,000 + 6000 \times 12 \times 16 \times 50/100)$ towards loss of dependency.



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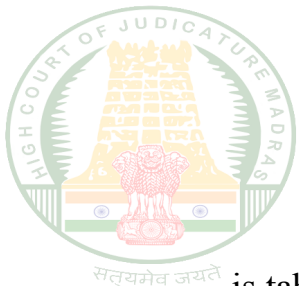
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8. The Tribunal awarded a sum of Rs.25,000/- each towards love and affection for the claimants. As per the law laid by the Hon'ble Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157(Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017)*, the first appellant/first claimant is entitled to Rs.40,000/- towards filial consortium. It is the case of the claimants that the second appellant/second claimant is a sister of deceased, who lost her husband and the third appellant/third claimant is unmarried sister of deceased and both were living as dependents of the deceased. Therefore, the claimants 2 and 3 are entitled to Rs.40,000/- each under the head love and affection.

9. In addition to the above compensation, the appellants/claimants are also entitled to Rs.15,000/- towards loss of estate.

10. As far as the compensation awarded under the other head transportation expenses is concerned, the same is confirmed, as it is just and reasonable. The amount of Rs.3,000/- awarded under the head damage to cloths is set aside.

11. Accordingly, the revised compensation awarded by this Court



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is tabulated as under:
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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	11,52,000	20,16,000	enhanced
2.	Loss of filial consortium to mother	25,000	40,000	enhanced
3.	loss love and affection to two sisters	50,000	80,000	enhanced
4.	Loss of estate	-	15,000	granted
5.	Transportation charges	5,000	5,000	confirmed
6.	Damages to clothes	3,000	-	set aside
7.	Funeral expenses	25,000	15,000	reduced
8	Total	12,60,000	21,71,000	enhanced by Rs.9,11,000

12. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.12,60,000/- is hereby enhanced to Rs.**21,71,000/-** together with interest at 7.5% per annum (excluding the default period, **i.e. 1673 days, as ordered by this court in CMP No.1362 of 2025, dated 27.01.2025**) from the date of petition till the date of deposit.

13. The second respondent is directed to deposit the



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compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **four weeks** from the date of receipt of a copy of this judgment. On such deposit, the appellants/claimants shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal. No costs.

13.02.2025

Index:Yes/No
Internet:Yes/No
mst

To

1. The Special District Judge,
Motor Accident Claims Tribunal,
Krishnagiri.
2. The Divisional Manager,
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S.SOUNTHAR, J.

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