



C.M.A.No.1817 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.07.2025

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.M.A.No.1817 of 2025

1.H.D.Sunil Kumar (minor)

2.H.Priyavathana (minor)

(Both are rep by their next friend and grandmother Kala) ... Appellants

..Vs..

1.P.Ganesan

2.The United India Insurance Co.,Ltd.,

Silingi Building, No.134, 4th floor,

Greens Road, Chennai 600 006

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 17.03.2025 made in MCOP.No.3405 of 2020 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.Amar Dineshbhai Pandiya

For Respondents :Service awaited - R1

Mr.K.Swaminathan for R2

JUDGMENT

The appellants/claimants not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP.No.3405 of 2020, dated 17.03.2025 has preferred this appeal seeking for enhancement of compensation.



C.M.A.No.1817 of 2025

2. The case of the claimants is that on 21.12.2019 at 7.30 a.m., while

the mother of the claimants was travelling as a pillion rider with her husband in a motor cycle bearing Regn.No.TN-12-9163 and he stopped the said vehicle behind a S.A.Engineering College Bus, a Eicher Van bearing Regn.No.TN-12-H-4793, driven by its driver in a rash and negligent manner, hit behind the two wheeler and it dashed the bus stopped before the two wheeler, due to which, the mother of the claimants namely Devi fell down and sustained severe injuries on her head and left hand and bleeding injuries all over the body. Immediately, she was taken to the Aavadi Government Hospital, where she was declared dead on the way. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the van. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.25,73,000/- under various heads as follows:



<i>Heads</i>	<i>Award Amount(Rs.)</i>
Loss of income/dependency	24,52,800/-
Loss of Estate	15,000/-
Loss of Consortium	80,000/-
Funeral Expenses	15,000/-
Transportation charges including damages to personal belongings	10,000/-
Total	25,72,800/-

The above mentioned amount is rounded off to Rs.25,73,000/-

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation by raising the following grounds:-

(a) The Tribunal erred in fixing notional income of the deceased as Rs.14,600/- without considering the Ex.P6 the documentary evidence of qualification of deceased that she completed MCS and earning Rs.25,000/- p.m.,



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C.M.A.No.1817 of 2025

(b) The Tribunal ought to have appreciate the other oral and documentary evidence placed before it by PW1.

(c) The Tribunal failed to follow the principles laid down by this court for fixing the notional income of the deceased in the absence of any proof of income of the deceased.

6. The learned counsel for the 2nd respondent submitted that due to the negligence of the rider of the two wheeler, the accident has occurred and that the rider of the two wheeler only dashed behind the foregoing vehicle bearing Regn No.TN-12-3999 and he failed to maintain proper distance. He further submitted that the driver of the bus was liable for the accident . He further submitted that the rider of the two wheeler did not possess a valid driving license at the time of accident. The claimants have to prove that the driver of the offending vehicles were having valid driving license at the time of the accident. Therefore, the Tribunal has awarded a just and fair compensation to the appellant and the same does not need interference of this court.

7. Before the Tribunal, the Appellants/claimants have filed fourteen documents which were marked as Ex.P1 to Ex.P14 and examined two



C.M.A.No.1817 of 2025

witnesses as PW1 and PW2. On the side of the 2nd respondent/Insurance

Company, neither any document was marked nor any witness was examined

on the side of the respondents before the Tribunal.

8. Heard both sides and perused the materials available on record.

9. Perusal of records would reveal that the deceased was a Master of Corporate Secretaryship, M.Phil., graduate, and she was working as a Project Manager in Makwell Solar Industries and on the date of accident, i.e., on 21.12.2019, as rightly objected by the learned counsel for the second respondent, there is no income proof for the deceased.

10. Insofar as the assessment of loss of income is concerned, considering the fact that the deceased possess the qualification MCS, M.phil., and was working as a Project Manager, the Tribunal has awarded Rs.20,440/-. This court, after considering the facts and circumstances of the case and since there is no proof for the income of the deceased, is inclined to fix Rs.20000/- towards loss of income.

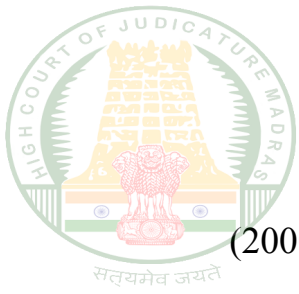


C.M.A.No.1817 of 2025

WEB COPY

11. Since the age of the deceased is 37 years, the assessment of the Tribunal in adopting multiplier 15 and future prospects at 40% are just and fair calculation and hence the same does not require interference of this court.

12. On perusal of records, it is seen that the Tribunal has not properly considered the evidences properly and the documents marked. Considering the age of the deceased and economic situation prevailing at the present time and also the facts and circumstances of the case, this Court is of the considered view that a sum of Rs.20,000/- is to be taken as monthly income of the deceased. Since the age of the deceased was 37 years at the time of accident, there is need to change the multiplier as 15. Further, considering and age and earning capacity of the deceased, 40% should be added towards future prospectus and 1/3 has to be deducted towards personal expenses for calculating loss of income. If Rs.20000/- is taken as the monthly income of the deceased, after adding 40% towards future prospectus of the deceased and 1/3 of the amount is deducted towards personal expenses and the multiplier of 15 is adopted, the loss of income works out to Rs.33,60,000/-



C.M.A.No.1817 of 2025

(20000 x 40 % = 8000), (20000 + 8000=28000; 28000 x 12x15x2/3
=33,60,000/-). Accordingly, the amount awarded by the Tribunal towards
' loss of income' comes to Rs.33,60,000/-.

13. Insofar as the other heads such as loss of estate, funeral expenses and transportation charges including damages to personal belongings, the assessment of the compensation awarded by the Tribunal is a just compensation, they do not call for any interference by this Court.

14. In the light of the above discussion, the compensation awarded by the Tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income/dependency	33,60,000
2.	Loss of Estate	15,000
3.	Loss of consortium	80,000
4.	Funeral Expenses	15,000
5.	Transportation charges including damages to personal belongings	10,000
	Total	34,80,000/-



C.M.A.No.1817 of 2025

WEB COPY 15.The compensation awarded by the Tribunal at Rs.25,73,000/- is enhanced to Rs.34,80,000/-. The second respondent/Insurance Company is directed to deposit the enhanced compensation of Rs.34,80,000/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of copy of this judgment. On such deposit, the Tribunal is directed to deposit the said amount in the name of the minor appellants equally in any one of the nationalised banks till they attain majority. Since the minor appellants are under the custody of their grandmother and in order to provide education to the minor appellants, the guardian/grandmother namely Kala is permitted to withdraw a sum of Rs.6,00,000/- along with the accrued interest, out of total compensation, until the minor appellants attain majority. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



C.M.A.No.1817 of 2025

WEB COPY 16.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

23.07.2025

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking Order

To

1. The Motor Accidents Claims Tribunal,
The Chief Judge, Court of Small Causes, Chennai
- 2.The Section Officer
V.R.Section, High Court of Madras.



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C.M.A.No.1817 of 2025

T.V.THAMILSELVI,,J

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C.M.A.No.1817 of 2025

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