



C.M.A.No.3527 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3527 of 2024

1.Mrs.S.Geetha
2.Minor S.Sai Akshaya
3.Smt.Saroja
(Minor 2nd petitioner rep.by
mother 1st petitioner Geetha)

...Appellants

Vs.

1.Mokan

2.Reliance General Insurance Co.Ltd.,
Reliance House,
No.236, Haddows Road,
Nungambakkam,
Chennai-32.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 30.06.2023 made in M.C.O.P.No.3387 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub-Court No.1, Small Causes Court, Chennai.

For Appellants : Mr.P.Selvaraj



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For Respondents : Mr.P.Suresh Srinivasan for R2

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JUDGMENT

Challenging the judgment and decree dated 30.06.2023 made in M.C.O.P.No.3387 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub-Court No.1, Small Causes Court, Chennai, the claimants have come up with this appeal.

2. Mr.P.Suresh Srinivasan, learned counsel takes notice on behalf of the 2nd respondent.

3. It is the case of the claimants that, on 03.02.2017 at about 2.10 p.m., when the deceased was riding a motor cycle bearing Regn.No.TN-22-CF-8883 along Tambaram to Puzhal bypass road opposite to S.S.V.Mini Mahal, Ambattur at the time, the rider of the motor cycle bearing Reg.No.TN-22-BH-3746 who was proceeding in front of the deceased motorcycle suddenly applied brake and turn on left side in order to go on left side without noticing the ongoing vehicle drove the motorcycle in a rash and negligent manner and the deceased motorcycle dashed with the 1st respondent motorcycle and due to which, the



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deceased sustained grievous injuries and succumbed to the same.

Thereby, the appellants, who are the dependents of the deceased filed a claim petition in M.C.O.P.No.3387 of 2017 claiming a compensation of Rs.50,00,000/-.

4. Before the Tribunal, the claimants examined two witnesses viz. P.W.1 and P.W.2 and marked exhibits P1 to P17 and on the side of respondents, they examined one witness viz. RW1 and marked exhibits R1 and R2.

5. After trial, though the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the negligence on the part of the 1st respondent, however, awarded a meagre amount of Rs.19,82,000/- towards compensation for the death of the deceased.

6. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellants/claimants have come up with this appeal seeking enhancement of compensation.



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7. Learned counsel for the appellants submitted that the above said accident happened solely due to the negligence on the part of the 1st respondent. The accident is of the year 2017 and at the time of accident, the deceased was only aged about 49 years and was working as a Personal Assistant and was earning a sum of Rs.25,000/- per month, however, the tribunal had taken the notional income of the deceased as Rs.10,500/-, which is very meagre and the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be increased. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

8. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



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9. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

10. The factum and manner of the accident is not disputed by the parties and therefore, this Court is not venturing into the same.

11. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2017 and at the time of accident, the deceased was aged about 49 years and he was a Personal Assistant by profession and the Tribunal has fixed the notional monthly income at Rs.10,500/-, which is on the lower side. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in *2014 (1) TANMAC 459*, and also considering the age of the deceased as also the claimants, fixing a notional income of Rs.15,000/- and adding future prospects at 25%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in



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2017 (16) Supreme Court Cases 680, the income per month is quantified at Rs.18,750/-. Deducting 1/3rd towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.12,500/- per month and the deceased being aged about 49 years, as evidenced from the records, adopting the multiplier of 13 as fixed by the Apex Court in the case of **Sarla Verma and Ors. v. DTC & Ors.** reported in **(2009) 6 SCC 121**, the loss of income to the family is arrived at Rs.12,500/- * 12 * 13 = Rs.19,50,000/-.

12. Insofar as the compensation awarded under the other heads and the are just and reasonable. Based on the oral and documentary evidence, the Tribunal has fixed 25% as contributory negligence on the part of the deceased. Therefore, the same needs no interference.

13. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	13,65,000/-	19,50,000/-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of Consortium	1,20,000/-	1,20,000/-
Loss of Estate	15,000/-	15,000/-
Funeral Expenses	15,000/-	15,000/-
Medical Expenses	11,27,661/-	11,27,661/-
Total	26,42,661/-	32,27,661/-
75% of compensation after deducting 25% of contributory negligence	19,81,995.25	24,20,746/-
Rounded off to	19,82,000/-	24,20,800/-

14. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in M.C.O.P.No.3387 of 2017 is modified by enhancing the compensation amount from Rs.19,82,000/- to Rs.24,20,800/-. The 2nd respondent Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.3387 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. The appellants/claimants are entitled to get the award amount as per the ratio



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apportioned by the Tribunal with proportionate interest and costs. On such deposit being made, the Tribunal is directed to transfer the compensation amount apportioned in respect of the major claimants/appellants directly to the bank account of the major appellants through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. Insofar as the apportionment of compensation in favour of the minor claimant/2nd appellant is concerned, the Tribunal is directed to invest the same in an interest bearing fixed deposit initially for a period of three years to be renewed till she attain majority and the quarterly interest accrued thereon shall be paid to the 1st appellant/mother of the minor appellant for being used for the welfare of the minor by the guardian. It is underscored that the appellants are not entitled to any interest for the default period, if any. No costs.

09.01.2025

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NCC : Yes/No

Index : Yes/No

Speaking Order : Yes/No

To:

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1. The Motor Accident Claims Tribunal,
Special Sub-Court No.1,
Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras.

M.DHANDAPANI, J.,

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