



C.M.A.No.433 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 28.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.433 of 2025

1.A.Vijayarangam

2.V.Thilagavathi

... Appellants

VS.

1.M.Dhanapathi

2.The Manager,
New India Assurance Company Limited,
Vellore,
Officers Line,
Vellore.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the portion of the order passed in M.C.O.P.No.375 of 2019, dated 05.04.2024 on the file of the Motor Vehicle Accident Claims Tribunal/I-Additional District and Sessions Judge, Vellore, to the extent of fixation of the award amount and consequently to enhance the award amount of Rs.5,00,000/- and to allow the C.M.A. as prayed for.



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For Appellants : Mr.J.Pradeep

For R2 : Mr.J.Chandran

For R1 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Vehicle Accident Claims Tribunal/I-Additional District and Sessions Judge, Vellore in M.C.O.P.No.375 of 2019, dated 05.04.2024, the claimants have come before this Court.

2. It is not in dispute that the son of the claimants namely Shengalvarayan died in a road accident that occurred on 03.06.2018. It is the case of the claimants that on 03.06.2018, their son proceeded in a two wheeler bearing Registration No.TN 23 BQ 3808 from Virinchipuram to Kanthaneri. When he was proceeding his two wheeler, suddenly he lost his control and dashed against the stationed lorry bearing Registration No.TN 23 AE 5679 belonged to the 1st respondent and insured with the 2nd



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respondent. As a result of the accident, the victim fell down on the road and sustained injuries, later, he died in Hospital. Hence, a claim petition was filed seeking compensation of Rs.50,00,000/-.

3. The 1st respondent-owner of the lorry remained *exparte* before the Tribunal and the claim petition was opposed only by the 2nd respondent-insurer of the lorry. It was the case of the insurer that the accident had occurred only due to the rash and negligent driving by the deceased.

4. Before the Tribunal, the 1st appellant/1st claimant was examined as PW.1 and yet-another witness was examined as PW.2. On behalf of the appellants/claimants, 16 documents were marked as Exs.P1 to P16. On behalf of the 2nd respondent-Insurance Company, an eye-witness was examined as RW.1 and 2 documents were marked as Exs.R1 and R2.

5. The Tribunal based on the evidence available on record, came to the conclusion that the driver of lorry parked heavy vehicle in the National Highway and therefore, the accident had occurred only due to the negligence on the part of the driver of the lorry. The compensation payable



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to the claimants was quantified at Rs.11,14,600/-. Not satisfied with the quantum of compensation, the claimants have come before this Court.

6. Since the arguments in this appeal is confined to the question of quantum, facts necessary to decide the questions of negligence and liability have not been discussed in this appeal.

7. The learned counsel appearing for the appellants/claimants would submit that accident had occurred in the year 2018 and the Tribunal fixed only Rs.7,000/- as notional income and therefore, the compensation amount needs to be enhanced.

8. The learned counsel appearing for the 2nd respondent/Insurer would submit that the bank pass book of the deceased was marked before the Tribunal. Based on the entry in the bank passbook, the Tribunal fixed the notional income at Rs.7,000/- and therefore, the same need not be disturbed.

9. In the claim petition it was stated by the claimants that deceased was employed in a Company and was earning Rs.23,000/- per month. In



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order to prove the income, the claimants marked Ex.P16-Bank Passbook of the deceased. The Tribunal clearly noted that a sum of Rs.6,428/- was credited in the account of the deceased on 05.06.2018 towards salary. On 05.04.2018, a sum of Rs.7,003/- was credited towards salary. On 05.05.2018, a sum of Rs.7,011/- was credited towards salary.

10. Taking into consideration the concrete evidence produced by the claimants by marking Bank Passbook of the deceased, the Tribunal fixed Rs.7,000/- as notional income and proceeded to calculate loss of dependency.

11. The income fixed by the Tribunal is based on the documentary evidence produced by the claimants and therefore, it cannot be faulted. Therefore, the submission made by the learned counsel appearing for the appellants that notional income fixed by the Tribunal needs enhancement is not acceptable to this Court. The amount awarded by the Tribunal under the other heads like loss of consortium, transport expenses, loss of estates and funeral expenses are in accordance with the law laid down by the Apex Court in *National Insurance Company Limited vs. Pranay Sethi and*



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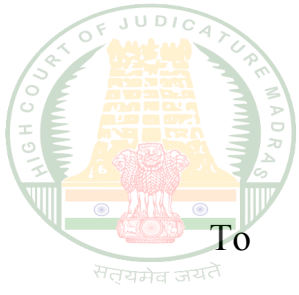
others reported in **(2017) 16 SCC 680**. Therefore, I do not find anything to

interfere with the award passed by the Tribunal.

12. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

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Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
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To

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- 1.The Motor Vehicle Accident Claims Tribunal/
I-Additional District and Sessions Judge, Vellore.
- 2.The Manager,
New India Assurance Company Limited,
Vellore, Officers Line, Vellore.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

dm

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