



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1870 of 2025

1. M.Vimala

W/o.Durai Late, res at No.1461,
Janagiram Chettiar Sathiram,
Chinnabulapuram, Gummidipoondi,
Thiruvallur-601201

2. VADIVEL

S/o.Durai Late, res at No.1461,
Janagiram Chettiar Sathiram,
Chinnabulapuram, Gummidipoondi,
Thiruvallur-601201

3. DEVI

D/o.Durai Late, res at No.1461,
Janagiram Chettiar Sathiram,
Chinnabulapuram, Gummidipoondi,
Thiruvallur-601201

Appellant(s)

Vs

1. K.Jaya

S/o.Muragaiah, NO.14-1-79, Nehru
Nagar, Tirupati Urban, Tirupati
Chittoor-517501



2. Bajaj Alliance General Insurance Co.
Ltd.

No.497/498, 5th Floor, Isana Kattima
Building, Poonamallee High Road,
Arumbakkam, Chennai-106

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the decree and Judgment dated 08.01.2024 made in MCOP No. 208 of 2020 on the file of Motor Accident Claims Tribunal (In the Chief judge Court of Small Causes, Chennai)

For Appellant(s): Mr.U.Chithambaram

For Respondent(s): Mrs. R. Srividhya For R2
R1 - Insufficient Address

JUDGMENT

The appellants have filed this appeal, to enhance the award passed in M.C.O.P.No. 208 of 2020 on the file of Motor Accident Claims Tribunal (In the Chief judge Court of Small Causes, Chennai, dated 08.01.2024.

2. The brief facts of the case of the appellants/claimants are as follows:

On 22.12.2019 at about 10.20 hrs while the victim was walking along with bicycle preceding from Chinnnaoppulapuram to Gummudipoondi at GNT Road,



near Chinnnaoppulapuram Bypass opposite to Polyhose Company, a car bearing

Reg.No.AP-28-CB-2246 driven in a rash and negligent manner with dangerous speed hit against the deceased, due to the impact the victim sustained multiple grievous injuries, he was taken to Kottakarai Government Hospital for treatment and the doctors declared him as dead. The 1st respondent is the owner of the offending vehicle, and the 2nd respondent is the insurer of the said vehicle.

3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs. 5,20,000/- as compensation, directing the 2nd respondent to pay the said amount to the appellants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimants) have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.



5. The learned counsel for the appellants submitted that the deceased was a Mason (Civil Contract Work) earning Rs.30,000/- per month. However, the Tribunal erroneously considered only salary of Rs. 12,000/-. He therefore, prayed for enhancement of compensation.

6. On the other hand, the learned counsel appearing for the 2nd respondent contended that the award passed by the Tribunal is based on well-settled principles of law applicable at the time of the order, and therefore, it need not be interfered.

7. The deceased was working as a Mason. However, no documentary evidence was adduced by the claimants to substantiate their claim that the deceased was earning a sum of Rs.30,000/- per month as mentioned in their claim petition. In the circumstances, this Court is of the opinion that fixing the notional monthly income of the deceased at Rs.16,000/- would meet the ends of justice.



8. The deceased died, leaving behind the appellants, who are his legal heirs, namely, his wife and 2 children. The appellants 2 and 3 are adults and living separately. Hence, 1/2 of the income is to be deducted towards the deceased's personal expenses. The deceased was aged above 60 years at the time of the accident, and as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another*, reported in (2009) 6 SCC 121, the proper multiplier to be adopted in the instance case is 5. The compensation awarded under the other heads by the Tribunal is confirmed.

9. Calculation

Notional Income = Rs.16,000/-

After 1/2 deduction = 16,000 – 8,000 = Rs.8,000/-

Loss of dependency

= Rs.8,000 x 12m x 5

= Rs.4,80,000/-

10. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:



Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Loss of dependency	3,60,000	4,80,000
2.	Loss of estate	15,000	15,000
3.	Loss of Consortium	1,20,000	1,20,000
4.	Funeral Expenses	15,000	15,000
5.	Transport Charges	10,000	10,000
	Total	Rs.5,20,000	Rs.6,40,000

Thus, the compensation awarded by the Tribunal is enhanced from Rs.5,20,000/- to Rs.6,40,000/-, which shall carry interest at the rate of 7.5% per annum.

11. In the result:

i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

ii. The compensation awarded by the Tribunal is enhanced from Rs.5,20,000/- to Rs.6,40,000/-.



iii. The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after the receipt of the Court fee.

iv. The 2nd respondent, the Bajaj Alliance General Insurance Company Ltd., Chennai, is directed to deposit the enhanced compensation amount, i.e., Rs.6,40,000/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No. 208 of 2020 on the file of Motor Accident Claims Tribunal (In the Chief judge Court of Small Causes), Chennai, within a period of eight weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made by the 2nd respondent, the appellants/claimants are at liberty to withdraw the same, as per the apportionment made by the tribunal, after following due process of law.



vi. The appellants/claimants shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

23-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To
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1.The Motor Accident Claims Tribunal
(In the Chief judge Court of Small
Causes, Chennai.

2.Bajaj Alliance General Insurance Co.
Ltd.

No.497/498, 5th Floor, Isana Kattima
Building, Poonamallee High Road,
Arumbakkam, Chennai-106.

3.The Section Officer,
VR Section, High Court of Madras.



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T.V.THAMILSELVI J.
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