



CMA No.2353 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.2353 of 2024

1. S.Chitra
W/o.Sivashankar (Deceased)

2.T.S.Shruthika (Minor)
D/o.Sivashankar (Deceased)

3.T.S.Jaisai (Minor)
D/o.Sivashankar (Deceased)

... Appellants

Vs.

1.B.Kirubass
S/o.Babu

2. M/s.Cholamandalam MS General Insurance Company Ltd.,
Dare House, 2nd Floor,
No.2,NSC Bose Road,
Chennai-600 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to enhance the compensation awarded in the judgement and decree dated 07.03.2024 passed in M.C.O.P.No.4178 of 2021, on the file of the Motor Accident Claims Tribunal, Chennai (In the IV Court of Small Causes, Chennai).



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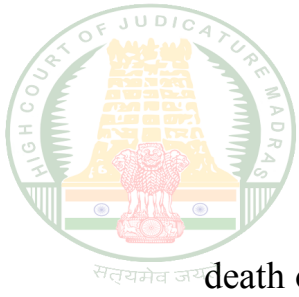
For Appellant : Mr.Amar Dineshbhai Pandiya
For R2 : Mr.B.Siva Kollappan
For R1 : Tapal not yet returned
Either served or unserved

JUDGMENT

The appellants have filed this appeal to enhance the compensation awarded in M.C.O.P.No.4178 of 2021, on the file of the Motor Accident Claims Tribunal, Chennai (In the IV Court of Small Causes, Chennai), dated 07.03.2024.

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

On 13.06.2021, at around 3.04 p.m., the deceased was riding as a passenger on a Royal Enfield Bullet motorcycle bearing registration No. TN-18-AX-5625, travelling from Minjur to Gummidipoondi. When the vehicle was near White plaza, Bathmavathi Nagar, T.H.Road, Minjur, a Yamaha motor cycle bearing registration No.TN-18-BC-6840, owned by the first respondent and insured by the second respondent, was being driven in a rash and negligent manner and collided head-on with the stationary Royal Enfield Bullet, causing a fatal accident resulting in the



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death of the passenger.

3. The accident occurred solely due to the negligent and reckless driving of the Yamaha motorcycle's rider. The first respondent is the owner of the said Yamaha motorcycle, which was insured by the second respondent under policy No.2883/00001351/9673/000/00, valid from 08.12.2020 to 07.12.2021, thereby covering the date of the accident. Therefore, the first respondent, as the owner, and the second respondent, as the insurer, are legally liable to compensate the petitioners for the loss sustained due to the death of the deceased.

4. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.22,70,500/- 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 petition till the date of realisation.

5. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimants) have filed the present appeal under



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Section 173 of the Motor Vehicles Act, 1988.

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6. Heard Mr. Amar Dineshbhai Pandiya, learned counsel appearing for the appellants, and Mr.B.Siva Kollappan, learned counsel appearing for the 2nd respondent.

7. The learned counsel for the appellants contended that the deceased was a contract labour and earning a sum of Rs.30,000/- per month. However, the Tribunal fixed monthly notional income of the deceased as Rs.12,500/-. He therefore, prayed for enhancement of compensation.

8. 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.

9. The deceased was working as a Contract Labourer. However, no documentary evidence was adduced by the claimants to substantiate their



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claim that the deceased was earning a sum of Rs.20,000/- 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.19,000/- would meet the ends of justice.

10. As per the decision of the Hon'ble Supreme Court in ***National Insurance Co. vs Pranay sethi and others***, reported in **2017 (2) TNMAC 601**, 40% is to be added towards future prospects of the deceased. The deceased died, leaving behind the appellants, who are his legal heirs, namely, his wife and two children. Hence, 1/3 of the income is to be deducted towards the deceased's personal expenses. The deceased was aged 40 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 15.

Calculation

Notional Income = Rs.19,000/-

40% Future Prospects = 19,000 + 7,600 = 26,600/-

After 1/3 deduction = 26,600 - 8867 = Rs.17,733/-



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Loss of dependency

$$= \text{Rs.}17,733 \times 12 \times 15$$

$$= \text{Rs.}31,91,940/-$$

11. 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	21,00,000	31,91,940
2.	Loss of Estate	16,500	16,500
3.	Funeral expenses	16,500	16,500
4.	Loss of Consortium	1,32,000	1,32,000
5.	Transportation Expenses	5,500	5,500
	Total	Rs.22,70,500	Rs.33,62,440
			Rounded off Rs.33,62,500

Thus, the compensation awarded by the Tribunal is enhanced from Rs.22,70,500/- to Rs.33,62,500/-, which shall carry interest at the rate of 7.5% per annum.



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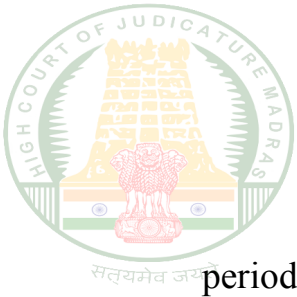
12. In the result:

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. 22,70,500/- to Rs.33,62,500/-.

iii. The appellants/claimants is 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, M/s.Cholamandalam MS General Insurance Company Ltd., Chennai-1, is directed to deposit the enhanced compensation amount, i.e., Rs. 33,62,500/- (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. 4178 of 2021 on the file of the Motor Accident Claims Tribunal, Chennai, (In the IV Court of Small Causes, Chennai), within a



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period of four 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.

09.07.2025

Index:Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no

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To

1. The Motor Accident Claims Tribunal,
Chennai, (IV Court of Small Causes, Chennai).
2. M/s.Cholamandalam MS General Insurance Company Ltd.,
Dare House, 2nd Floor,
No.2,NSC Bose Road,
Chennai-600 001.
3. The Section Officer, V.R. Section, High Court of Madras.

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T.V.THAMILSELVI, J.

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