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C.M.A.No.2758 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	04.06.2025
Pronounced on	03.07.2025

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.2758 of 2022 and
C.M.P. No.21553 of 2022

The Divisional Officer,
The National Insurance Company,
2nd Floor, 110, Jawaharlal Nehru Street,
Puducherry

...Appellant

Vs.

- 1.1. Manjula
2. Pradeepa Minor (Age 16)
3. Hariharan, Minor (Age 10)
4. Pazanisamy (Age 58)
5. Vanasundari (Age 55)
6. Ganesan

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, praying to set aside the decree and judgment dated 11.01.2022 made in MCOP No.95/2019 on the file of the Motor Accidents Claims Tribunal, Thitagudi.



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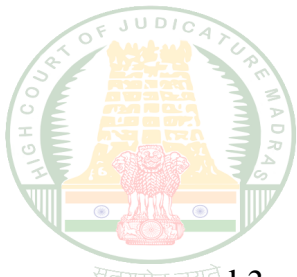
For Appellant : Mr.S.Vadivel
For Respondents : No Appearance

JUDGMENT

The Insurance Company who is the second respondent before the Motor Accident Claims Tribunal, Tittagudi, in M.C.O.P. No.95/2019 is the appellant in this Civil Miscellaneous Appeal.

2. Aggrieved by the quantum of compensation awarded by the Tribunal, the Insurance Company has brought forth the present Civil Miscellaneous Appeal.

3. The present appeal is directed against the Award dated 11.01.2022 passed by the Motor Accidents Claims Tribunal, Thittagudi, in MCOP No.95/2019, directing the appellant/Insurance Company to pay a sum of Rs.41,67,584/- with interest at the rate of 7.5% per annum from the date of presentation of the petition till the date of realisation for the death of one Gopala Krishnan, husband of the first claimant and father of the claimants 2



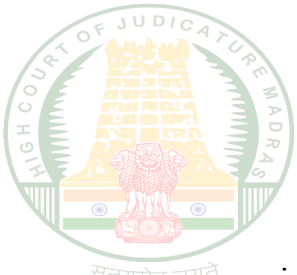
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and 3 and son of the claimants 4 and 5.

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4. The respondents/claimants herein preferred the abovesaid Claim Petition for the death of Gopala Krishnan who met with an accident on 22.09.2019. On that fateful day, when the deceased was standing in front of his house situated in Eriyur-Kandanguruchi Main Road, a lorry bearing Registration No.TN 28 AF 8793 came towards North, driven by its driver in a rash and negligent manner, hit Gopala Krishnan, due to which he sustained multiple injuries all over the body and was immediately taken to Government Hospital, Thitakudi, where he was declared dead. The deceased was aged 39 years at the time of accident and was earning a sum of Rs.40,000/- per month as a mason and agriculturist. Hence, the claimants filed the above claim petition seeking compensation of Rs.50,00,000/- for the death of Gopalakrishnan.

5.The said claim was resisted on the side of the appellant/Insurance Company by stating that the alleged accident took place due to carelessness of the deceased and the compensation claimed by the claimants/respondents are



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excessive.

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6. The Tribunal based on the materials on record, directed the 2nd respondent/ Insurance Company to pay a sum of Rs.41,67,584/- as compensation to the claimants.

7. In the present appeal, the challenge made by the appellant Insurance Company is about the notional monthly income fixed by the Tribunal for calculating the loss of dependency. According the learned counsel for the appellant, the Tribunal has fixed the notional monthly income of the deceased at Rs.25,000/- per month without any evidence on record to establish the monthly salary of the deceased.

8. Though the names of the respondents are printed in the cause list after due service of notice, there is no representation on the side of the respondents.



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9. According to the claimants, the deceased was working as a mason and agriculturist also earning a sum of Rs.40,000/- per month. On a perusal of Ex.P9 and Ex.P10, it is seen that the ID card of the deceased got expired in the year 2017, whereas the alleged accident took place in the year 2019. Moreover, there is nothing on record to show that the deceased was working as a mason and was an agriculturist at the time of the accident and was earning a sum of Rs.40,000/- per month. However, there is no contra evidence on the side of the appellant/Insurance Company that the deceased was not working as a mason and was not having any income.

10. Therefore, considering the above factual aspects, the notional monthly income of the deceased is fixed at Rs.15,000/- and loss of dependency is calculated by adding 25% towards future prospect to the monthly income and adopting multiplier of 14. Since there are 5 dependants to the deceased, 1/4 is deducted towards his personal expenses. Accordingly, loss of dependency is calculated as follows:

Calculation



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Notional monthly income	- Rs.15,000/-
25% future prospects	- Rs.3,750/-
Total	- Rs.18,750/- (15,000 + 3750)
After 1/4 deduction	- Rs.14,063/-

Loss of dependency

- Rs.14,063/- x 12 x 14

- Rs.23,62,584/-

In all other aspects, the compensation awarded by the Tribunal is confirmed.

The following tabular column would show the compensation awarded by the Tribunal and the enhanced compensation awarded by this Court.

S.No.	Head	Amount awarded by the Tribunal(Rs.)	Amount granted by this court (Rs.)
1.	Loss of dependency	39,37,584/-	23,62,584/-
2.	Loss of consortium for the claimants	2,00,000/- (Rs.40,000/- x 5)	2,00,000/-
3.	Loss of estate	15,000/-	15,000/-
4.	Funeral expenses	15,000/-	15,000/-
Total		41,67,584/-	25,92,584/-

11. In the result,

i. The appeal is allowed. No costs. Consequently, connected



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miscellaneous petition is closed.

- ii. The compensation awarded by the tribunal is reduced to Rs.25,92,584/- from Rs.41,67,584/-.
- iii. The appellant/The National Insurance Company, Puducherry, is directed to deposit the compensation of Rs.25,92,584/- along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, less the amount already deposited by them, within a period of eight weeks from the date of receipt of a copy of this order.
- iv. On such deposit being made, the claimants are permitted to withdraw their respective share, as per the apportionment made by the tribunal, on making appropriate application before the Tribunal.

03.07.2025

bga

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

K.GOVINDARAJAN THILAKAVADI, J.

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To

1. The Motor Accidents Claims Tribunal, Thitagudi.
2. The Section Officer,
VR Section,
High Court, Madras.

Pre-delivery Judgment made in

C.M.A.No.2758 of 2022 and
C.M.P. No.21553 of 2022

03.07.2025