



CMA No.2539 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.2539 of 2024

1.Sitara Khatun
2.Minor.Wahid Raja
3.Minor.Joya Khatun,
4.Maimun Nisha
5.Nijamuddin Ansari

... Appellants

Vs.

1.P.Madasamy
2.United India Insurance Company Limited,
Silingi Building, No.134, Greams Road,
Chennai-600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the order and decree dated 29.09.2003 passed in M.C.O.P.No.396 of 2022 on the file of the Motor Accident Claims Tribunal (No.II, Court of Small Causes) Chennai.

For Appellant : Mr.S.Ravi Kumar

For R2 : Mr.R.Vijaya Kamala for R2
Mr.S.Saravanan for R1



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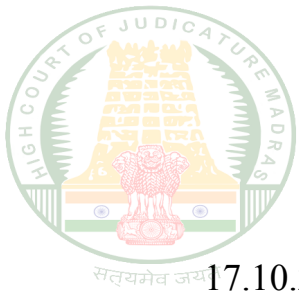
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JUDGMENT

The appellants have filed this appeal against the award passed in M.C.O.P. No. 396 of 2022 on the file of the Motor Accident Claims Tribunal (No.II, Court of Small Causes) Chennai, dated 29.09.2023.

2. The brief facts of the case of the appellants/claimants are as follows: On 16.10.2021, at about 19:45 hours, the deceased was walking as a pedestrian along the side of the road, proceeding from South to West, in the middle of Reach Road between the Railway Track and Eco Park, Thoothukudi. At that time, a motorcycle bearing Registration No. TN-74-U-1945, coming from the same direction, was driven in a rash and negligent manner at a high speed. The rider, without following traffic rules and driving in a zigzag manner, hit the deceased from behind. As a result of the impact, the deceased was thrown onto the road and sustained a severe head injury along with multiple fatal injuries all over the body. He was immediately taken to the Government Thoothukudi Medical College Hospital, Thoothukudi, where he was treated as an inpatient from 16.10.2021. Unfortunately, he succumbed to his injuries and died on

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17.10.2021. A post-mortem was conducted at the Government Thoothukudi Medical College Hospital.

3. According to the appellants/claimants, the accident occurred solely due to the rash and negligent driving of the rider of the motorcycle bearing Registration No. TN-74-U-1945 was solely responsible for the accident that resulted in the death of the deceased. The respondents, being the owner and the insurer of the said motorcycle, are statutorily and vicariously liable to pay compensation to the appellants herein, along with interest.

4. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs. 21,43,000/- 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).



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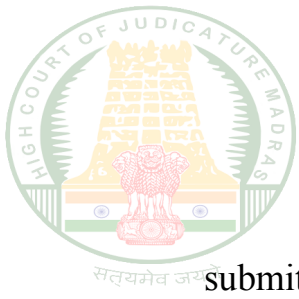
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5. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimants) have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6. Heard Mr.S.Ravi Kumar, learned counsel appearing for the appellants, and Mr. R.Vijaya Kamala, learned counsel appearing for the 2nd respondent and Mr.S.Saravanan, learned counsel appearing for the 1st respondent.

7. The learned counsel for the appellants submitted that the deceased was a Welder in EDAC Engineering company limited, Kudgi, drawing a salary of Rs. 20,000/-. However, the Tribunal erroneously considered only salary of Rs. 10,000/-. Furthermore, the deceased was aged about 36 years at the time of the accident, which was not taken into account while awarding compensation and prayed for enhancement.

8. On the other hand, the learned counsel appearing for the 2nd respondent contended that personal allowances were deducted, and the Tribunal rightly fixed the monthly salary at Rs. 10,000/-. He further



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submitted that the amount awarded under the head of loss of consortium is sustainable and prayed for dismissal of the appeal as devoid of merit.

9. On considering the submissions of both parties and on perusal of the records, it is evident that the deceased was working as Welder in EDAC Engineering company limited, Kudgi, and earning of Rs. 20,000/- per month. However, considering the cost of living in the year 2021, this Court is inclined to fix the monthly income of the deceased at Rs.18,000/-

10. As per the decision of the Hon'ble Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi and Others*, reported in 2017 (2) TN MAC 601, 40% is to be added towards future prospects. The deceased died leaving behind his legal heirs, his wife, two children, and his parents. Hence, 1/4th of the income is to be deducted towards personal expenses. The deceased was aged 36 years at the time of the accident, and as per the judgment in *Sarla Verma & Others v. Delhi Transport Corporation & Another*, (2009) 6 SCC 121, the appropriate multiplier is 15.



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11. Calculation:

- Notional Income: Rs. 18,000/-
- 40% Future Prospects: Rs. 18,000 + 7,200 = Rs. 25,200/-
- After 1/4 Deduction: Rs. 25,200 - 6,300 = Rs. 18,900/-

Loss of Dependency: Rs. 18,900 × 12 × 15 = Rs. 34,02,000/-

12. The following table sets out the amounts awarded by the

Tribunal and the enhanced amounts awarded by this Court:

<i>Sl. No</i>	<i>Heads</i>	<i>Amount Awarded by Tribunal</i>	<i>Amount Awarded by High Court</i>
1.	Loss of Dependency	Rs. 18,90,000	Rs. 34,02,000
2.	Loss of Consortium	Rs. 2,20,000	Rs. 2,20,000
3.	Loss of Estate	Rs. 16,500	Rs. 16,500
4.	Funeral Expenses	Rs. 16,500	Rs. 16,500
	Total	Rs. 21,43,000	Rs. 36,55,000

Thus, the compensation awarded by the Tribunal is enhanced from Rs. 21,43,000/- to Rs. 36,55,000/-, which shall carry interest at the rate of 7.5% per annum.

13. In the result:



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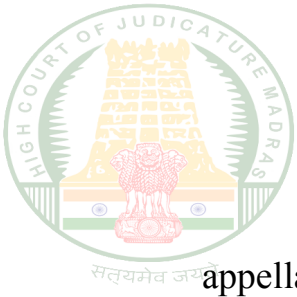
i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

ii. The compensation awarded by the Tribunal is enhanced from Rs. 21,43,000/- to Rs. 36,55,000/-.

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 receipt of the court fee.

iv. The 2nd respondent is directed to pay the enhanced compensation amount of Rs.36,55,000/- (after deducting any amount already deposited), along 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. 396 of 2022 on the file of the Motor Accident Claims Tribunal (No.II, Court of Small Causes) Chennai, within a period of six 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



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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 any period of delay, if any, in filing this appeal.

25.06.2025

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

To

1. The Motor Accident Claims Tribunal (No.II, Court of Small Causes) Chennai.
- 2.United India Insurance Company Limited,
Silingi Building, No.134, Greams Road,
Chennai-600 006.
3. The Section Officer, V.R. Section, High Court of Madras.



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