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CMA No. 2549 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2549 of 2024

1. Kosum Devi
- 2.Ritikraj Kumar (minor)
- 3.Shivani Kumari (minor)
- 4.Vicky Kumar (Minor)
(All Minors rep. by Mother and Natural
Guardian Kosum Devi)

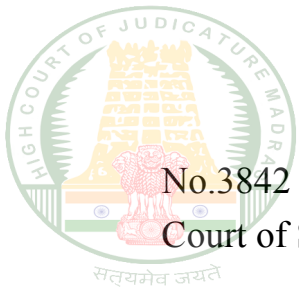
Appellants

Vs

1. K.Srinivasan
- 2.Iffco Tokio General Insurance Co. Ltd
4th Floor, IFFCO Bhavan, No.128,
Habibullah Road, T.Nagar,
Chennai - 17.

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to allow the appeal and enhance the compensation in MCOP



No.3842 of 2022 on the file of the Motor Accidents Claims Tribunal in the IV Court of Small Causes, Chennai.

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For Appellants: Mr.R. Mohan Babu

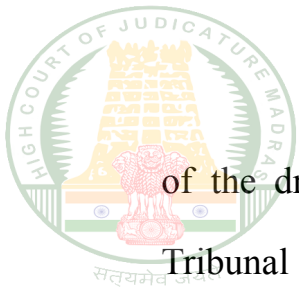
For Respondents: Mr.K.Poomalai For R2
R1 - Notice Dispensed With .

JUDGMENT

Challenging the impugned award passed by the tribunal in MCOP.No.3842 of 2022, the appellants/petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The appellants are wife sons and daughter of deceased Shivgee Pandid. The case of appellants is that on 24.04.2021 at about 13.00 hours, when the deceased was riding his bicycle towards Maadharlpakkam Bazzar Store and when nearing to N.S.Nagar Church, at that time, driver of two wheeler bearing Regn. No. TN-18 AW-3837 came in opposite direction in a rash and negligent manner, hit against the deceased and caused an accident. Due to which, the deceased sustained fell down on the road and sustained severe head injury, for which he underwent treatment in the hospital, but he died inspite of treatment. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.30,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part



of the driver of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.28,12,500/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency	26,77,500
2.	Loss of consortium	1,00,000
3.	Loss of estate	15,000
4.	Funeral expenses	15,000
5.	Transport charges	5,000
	Total compensation awarded (by adding Sl. Nos. 1 to 5)	28,12,500

4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The learned counsel for appellants would argue that the accident was happened in the year 2021 and he was working as Machine Operator at NISSI Rubber Work, Gummidipundi, thereby he was earning a sum of Rs.18,000/- per month, but without considering the same and the cost of living at that time, the tribunal had fixed the notional monthly income as Rs.12,500/-. Hence, they prayed for enhancement of compensation.

6. The learned counsel for 2nd respondent raised objections stating that the deceased was aged about 29 years and there is no proof produced on the side of appellants for the income derived by him as a Machine Operator at NISSI



Rubber Work, Gummidipoondi around Rs.18,000/-. Hence, the Tribunal had rightly fixed the notional income as Rs.12,500/-, which needs no interference.

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7. Heard rival submissions of both learned counsel for appellants and 2nd respondent and perused the materials available on record.

8. On seeing the facts, it reveals that the accident was happened in the year 2021 and he was working as Machine Operator at NISSI Rubber Work, Gummidipundi, thereby even per day his income is to be considered as a sum of Rs.600/-. Hence, he would have earned a sum of Rs.18,000/- per month. Therefore, this Court is inclined to enhance the notional income of the deceased Shivgee Pandit from Rs.12,500/- to Rs.18,000/-.

9. Furthermore, the Tribunal has granted only a sum of Rs.1,00,000/- under the head of 'Loss of consortium'. This is on the lower side and hence, each of the claimant is entitled for a sum of Rs.44,000/- under this head. Accordingly, the total compensation under this head is fixed at Rs.1,76,000/- (Rs.44,000/- x 4). The Tribunal has also granted only a sum of Rs.5,000/- towards transport charges, however, the appellants have spent huge amount for transporting the body of deceased to their home. Considering that, this Court is inclined to enhance the amount awarded towards transport charges from Rs.5000/- to Rs.10,000/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

10. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



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S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	For loss of income Rs.18,000/- (add 40% future prospects) = 18000 + 7200 =25200 25200 x 12 x 17 (multiplier) = 51,40,800 – 1/4 (12,85,200) = 38,55,600	26,77,500	38,55,600	enhanced
2.	Loss of love and affection (Rs.44000 x 4)	1,00,000	1,76,000	enhanced
3.	Loss of estate	15,000	15,000	confirmed
4.	Funeral expenses	15,000	15,000	confirmed
5.	Transport charges	5,000	10,000	enhanced
	Total	28,12,500	40,71,600	enhanced

11. Accordingly, the compensation awarded by the tribunal at Rs.28,12,500/- is enhanced to Rs.40,71,600/-. On such deposit of the enhanced compensation amount now determined by this Court, the 1st appellant is entitled to share the amount proportionately as ordered by the Tribunal and she is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. It goes without saying that the



enhanced compensation that is paid by the Insurance Company can be recovered from the owner of the vehicle as was ordered by the Tribunal.

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12. As far as the share of minor appellants 2 to 4 are concerned, the same shall be deposited in any nationalised bank bearing fixed deposit scheme until the minor attains majority and the interest thereon shall be withdrawn by minor appellants' mother, once in three months.

13. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

08-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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