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C.M.A.No.3136 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.12.2025

Pronounced on: 18.12.2025

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI,J.

C.M.A.No. 3136 of 2025

1. Mehrunnissabi
2. Kaderbi
- 3.Rowbabi
- 4.Barakath
5. Ibrahim

...Appellants

Vs.

1. S. Murugavel
2. The United India Insurance Co. Ltd.,
Represented by its Branch Manager,
No. 50A, Pallivasal Street,
Perambur.

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, praying for enhancement of compensation in the judgment and decree dated 23.03.2021 made in MCOP No.1076 of 2016,on the file of the Motor Accident Claims Tribunal / Principal District Judge, Perambalur.

For Appellants : Mr. S. Harish
for Mr.C. Vidhusan

For Respondents : Mr. S. Arunkumar for R2



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JUDGMENT

The appeal is directed against the award dated 23.03.2021 made in MCOP No.1076 of 2016, on the file of the learned Principal District Judge, Motor Accident Claims Tribunal, Perambalur.

2. Brief facts giving rise to this appeal are that, on 20.07.2016, the deceased Mustafa was riding his motor cycle bearing Registration No. TN 02 M 6454 from north towards south in Chennai to Trichy NH 45 Road and at that time, a lorry bearing Registration Number TN 31 C 9086, belonging to the first respondent, which was driven in a rash and negligent manner dashed against his motor cycle, as a result of which, the deceased was thrown out of the vehicle and sustained multiple grievous injuries. The deceased was given first aid in the Govt. Hospital, Perambalur, and was then taken to Government Hospital, Trichy, for further treatment, where he died on 22.07.2016.

3. On the aforesaid grounds, the claimants of the deceased have filed the Claim Petition before the Claims Tribunal claiming compensation for the death of the deceased. They have claimed various amounts under different heads and in all claimed a total sum of Rs.20,00,000/- as compensation.

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4. Their claim was opposed by the 2nd respondent Insurance Company.

The learned Tribunal, after trying the issues, partly allowed the claim of the claimants and awarded a sum of Rs.4,79,500/- as compensation. Feeling that the sum awarded to them was insufficient, this appeal under Section 173 of the Motor Vehicles Act, has been filed by the appellants/claimants.

5. According to the learned counsel for the claimants, though the monthly income of the deceased was Rs.20,000/-, the Tribunal has fixed the notional monthly income of the deceased only at Rs.6,500/-, which is very meagre and the same has to be enhanced. He further submitted that the Tribunal has not awarded loss of consortium to the claimants 2 to 5, which they are entitled for. Hence, prayed for enhancement of the award passed by the Tribunal.

6. The learned counsel for the 2nd respondent / Insurance Company has submitted that the accident had not been caused due to negligence of the 1st respondent's driver, therefore, respondents are not liable to pay any compensation to the appellants. He would further submit that the Tribunal had deducted ¼ towards the personal expenses of the deceased, which is incorrect



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for the reason that the claimants 2 to 5 are not dependants of the deceased, since they are married and were not living with the deceased. There is no evidence on record to show that the claimants 2 to 5 were depending on the deceased. Therefore, the Tribunal erroneously adopted $\frac{1}{4}$ towards the personal expenses of the deceased under the impugned award. He would submit that mere status of legal representative alone is not sufficient to make a claim. The basis for entitlement for compensation is dependency. If a legal representative is not a dependant of the deceased, he is not entitled for compensation for loss of dependency. To support of his contentions he has relied on the following Judgments:

1. Judgment of Division Bench of this Court dated 29.09.2021 made in CMA No.893 of 2021
2. Judgment of this Court dated 29.04.2021 made in CMA No.2679 of 2016.
3. Judgment of Division Bench of this Court dated 26.03.2021 made in CMA No.538 of 2021
4. 2021 (2) TNMAC 169 DB (Saroja vs. Parvathy & others)
5. 2025 INSC 675 (Deep Shikha & others vs. National Insurance Co. Ltd.)



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7. On the other hand, the learned counsel for the appellants / claimants would submit that, though the claimants 2 to 5 are married, they were depending on the deceased and there is no reason to exclude them from compensation. Hence, the Tribunal has rightly deducted $\frac{1}{4}$ towards the personal expenses of the deceased, which warrants any interference by this Court.

8. The findings of the learned Tribunal regarding the involvement of the vehicle in question, the negligence of the respondent No.1, driver of the vehicle, and the deceased having sustained fatal injuries which ultimately resulted in his death, are against the respondents in the claim petition. After going through the materials on record, the aforesaid findings of the learned Tribunal appear to be quite correct. The findings are based on proper appreciation of evidence on record and there is no ground to interfere with the above findings of the learned Tribunal. Hence, the findings of the learned Tribunal in this regard are affirmed.



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9. Now, the question arises as to whether the Tribunal erred in deducting

$\frac{1}{4}$ towards the personal income of the deceased and in not awarding loss of consortium to the claimants 2 to 5.

10. In *National Insurance Company Limited vs. Birender and others reported in (2020) 11 SCC 356*, the Hon'ble Apex Court clarified that adult children, even if earning, could be considered dependants based on the specific facts of the case. The Hon'ble Apex Court emphasised that dependency is not solely determined by financial independence but also by other facts, such as, living arrangements and extent of financial support provided by the deceased. If the adult sons were earning modest incomes and living with the deceased, they could be considered dependants. While the married daughters' dependency was acknowledge based on their relationship and circumstances.

10.1. In the present case, since the 2nd respondent/Insurance Company has raised the issue about the dependency of the claimants in their counter affidavit, the claimants ought to have established that the claimants 2 to 5 were largely dependant on the earning of their deceased father. Therefore, mere



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status of legal representative alone is not sufficient. If they are not dependant of the deceased, they are not entitled for compensation for loss of dependency.

The learned Tribunal, without any materials on record, has erroneously deducted $\frac{1}{4}$ towards loss of dependency. However, they shall be entitled for loss of consortium on account of death of their father (Ref: **Oriental Insurance Co. Ltd., vs. Satya Devi and others (FAO No.4165 of 2013)**). Hence only 50% deduction towards personal and living expenses is sustainable. Though the Insurance Company has not preferred any cross appeal in this regard, this Court invoking the power under Order 41 Rule 33 of the Code of Civil Procedure, to ensure complete justice and to avoid conflicting outcomes, deems it fit to deduct only 50% towards personal and living expenses. Since, the claimants 2 to 5 are entitled for loss of consortium and since the Tribunal failed to award any amount towards loss of consortium to the above claimants, a sum of Rs.1,60,000/- is awarded towards loss of consortium for the claimants 2 to 5.

10.2. On a perusal of the impugned order, it is seen that the notional monthly income of deceased is fixed at Rs.6,500/-, which is found to be very less. Considering the age of the deceased and the year of accident, the income



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of the deceased, who was running a mutton stall at the time of accident, this

Court deems it fit to fix the income of the deceased at the rate of Rs.10,000/-

per month. Since the age of the deceased was 63 years at the time of

accident, the proper multiplier would be 7 and no future prospects is

applicable. Hence, the loss of dependency is calculated as under:

Calculation

Notional Income = Rs.10,000/-

After 1/2 deduction = Rs.5,000/-

Loss of dependency

= Rs.5,000/- x 12 x 7

= Rs.4,20,000/-

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

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Loss of dependency	4,09,500/-	4,20,000/-
2.	Spousal Consortium	40,000/-	40,000/-
3.	Loss of consortium to	-	1,60,000/-



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	claimants claimants 2 to 5		
4.	Loss of Estate	15,000/-	15,000/-
5.	Funeral Expenses	15,000/-	15,000/-
	Total	Rs.4,79,500/-	6,50,000/-

11. In the result,

i.The Civil Miscellaneous Appeal is partly allowed. No costs.

ii.The quantum of compensation awarded by the Tribunal is enhanced to Rs.6,50,000/- from Rs.4,79,500/-.

iii.The 2nd respondent/Insurance company is directed to deposit a sum of Rs.6,50,000/- with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order, to the credit of MCOP No.1076 of 2016,on the file of the learned Principal District Judge, Motor Accident Claims Tribunal, Perambalur.



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iv. The appellants/claimants are not entitled for interest for the default period.

v. On such deposit being made, the claimants are at liberty to withdraw their share as per the apportionment made by the Tribunal, with costs and interest, after filing a proper petition for withdrawal.

18.12.2025

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

1. The Principal District Judge,

Motor Accident Claims Tribunal Perambalur.

2. The Section Officer,

VR Section,

High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-delivery Judgment made in

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