



C.M.A.No.61 of 2025

M.DHANDAPANI, J.

WEB COPY

This matter is listed before this Court under the caption “for being mentioned” at the instance of the learned counsel for the appellant.

2. It is brought to the notice of this Court that though the name of the third respondent is added as party in this appeal, however, due to the typographical error, the name of the third respondent is missing in the cause list. Hence, one Vijayakumar, shall be ranked as third respondent in the cause title. Therefore, it is prayed that necessary modification be made in the cause title of the order dated 22.01.2025.

3. Registry is directed to carry out the aforesaid corrections and issue fresh order copy to the parties.

25.02.2025

rap



WEB COPY



M.DHANDAPANI, J.

rap

C.M.A.No.61 of 2025

25.02.2025



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.61 of 2025

1. Vasu
2. Pushpalatha
3. Jayakumar

...Appellants

Vs.

1. Thamizharasan
2. M/s.National Insurance Company Limited,
Rep.by its Manager,
No.32, Dwarakanath Building,
Venkadesapuram, Perambalur District.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in Judgment and decree dated 23.01.2023 made in M.C.O.P.No.160 of 2019 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Perambalur.

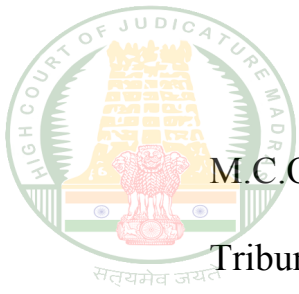
For Appellants : M/s.D.Boopal

For Respondents : Notice dispensed with [R1]

Mr.J.Chandran for R2

JUDGMENT

Challenging the judgment and decree dated 23.01.2023 passed in



M.C.O.P.No.160 of 2019 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Perambalur, the claimants have filed the above appeal seeking enhancement of compensation.

2. In view of the judgment being passed, notice to the respondents 1 and 3 is dispensed with.

3. It is the case of the appellants / claimants that, on 25.01.2019 at about 14.45 hours, when the deceased namely Maruthai was parking his cycle at the extreme left side of the road, at that time, a car bearing Regn.No.TN 33 BJ 2536 driven by its driver belonging to the first respondent came in a rash and negligent manner and dashed the deceased, due to which the deceased sustained grievous injuries and died on the spot. Thereby, the appellants, who are the dependents of the sons and daughter of the deceased have filed a claim petition in MCOP.No.160 of 2019 claiming a compensation of Rs.15,00,000/-.

4. Before the Tribunal, the claimants examined two witnesses viz. P.W.1 and P.W.2 and marked Exhibits P.1 to P.7 and the respondents have neither marked any exhibits nor examined any witnesses. After trial,



WEB COPY

the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent's car and awarded Rs.1,90,000/- towards compensation for the death of the deceased. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellants/claimants have come up with this appeal seeking enhancement of compensation.

5. Learned counsel for the appellants submitted that the above said accident happened solely due to the rash and negligent driving on the part of the driver of the 1st respondent's car and the accident is of the year 2019 and at the time of accident and was working as a cleaner of school bus earning not less than Rs.8,000/- per month, however, the tribunal without considering the materials available on record, had awarded a meagre compensation of Rs.1,90,000/- without awarding any compensation under the head “loss of dependency” and without adopting any method, which is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be interfered with. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he



prayed for appropriate orders.

WEB COPY

6. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, she prays for dismissal of the appeal.

7. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties and the parties have not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same.

9. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2019 and on a perusal of the award passed by the Tribunal, it is seen that the Tribunal has not adopted any method to arrive at the above said compensation. Hence, this Court



WEB COPY

thinks it appropriate to adopt multiplier method to arrive at the compensation for the loss sustained by the claimants for the death of the deceased. It is claimed that at the time of accident, the deceased was working as a cleaner in a School bus. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459**, and also considering the age of the deceased as also the claimants, fixing a notional income of Rs.13,000/- and since the deceased was aged about 74 years, he is not entitled for future prospects. Since all the claimants are major, deducting 50% towards personal expenses would be just and proper and the loss of dependency to the family is arrived at Rs.6,500/- per month (Rs.13,000 - Rs.6,500) and the deceased being aged about 74 years, as evidenced from the records, adopting the multiplier of 5 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in **(2009) 6 SCC 121**, the loss of dependency to the family is arrived at Rs.6,500/- * 12 * 5 = Rs.3,90,000/-.

10. Insofar as the compensation awarded under the other heads are concerned, this Court is of the view that the compensation awarded under other heads are just and reasonable and the same does not requires



interference of this Court.

WEB COPY

11. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of dependency	-	3,90,000/-
Parental consortium	1,60,000/-	1,60,000/-
Loss of estate	15,000/-	15,000/-
Loss of funeral expenses	15,000/-	15,000/-
Total	1,90,000/-	5,80,000/-

12. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.160 of 2019 is modified by enhancing the compensation amount from Rs.1,90,000/- to **Rs.5,80,000/-**. The 2nd respondent Insurance company is directed to deposit the said amount to the credit of MCOP.No. 160 of 2019 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award



amount directly to the bank account of the appellants/claimants through RTGS within a period of two weeks thereafter, upon production of proof

WEB COPY

with regard to payment of Court fee on the enhanced compensation. It is underscored that the appellants are not entitled to any interest for the default period, if any. Since the third respondent is also one of the son of the deceased, he is also entitled for compensation. The enhanced compensation awarded by this Court shall be apportioned among the claimants including the third respondent as per the order of the Tribunal, No costs.

22.01.2025

rap
NCC : Yes/No
Index : Yes/No



WEB COPY

M.DHANDAPANI, J.

rap

To:

- 1.Motor Accident Claims Tribunal, Principal District Judge, Perambalur.
2. The Section Officer,
V.R. Section, High Court, Madras.

CMA.No.61 of 2025

22.01.2025