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CMA No.570 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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1. Sasikala
2. Minor Rajendraprasanth (16 years)
3. Minor Ramya (14 years)
minors are rep. by next friend natural
guardian mother Sasikala.
4. Arumugam
5. Anaiyammal

...Appellants

vs.

1. Sathya
2. The New India Assurance Co. Ltd.,
TPHUB 2/91, New Bus Stand Road,
Meyyanur, Salem.

... Respondent

Prayer: The Civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to enhance the compensation amount made in MCOP No.366 of 2023, dated 03.10.2023 on the file of the Special District Judge, Motor Accident Claims Tribunal, Salem.

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mr.J.Chandran



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JUDGMENT

The civil miscellaneous appeal is filed by the claimants seeking enhancement of compensation awarded by the Tribunal.

2. It is not in dispute that the husband of the first claimant, father of the second claimants 2 and 3 and son of the claimants 4 and 5, namely Shanmugam died in a road accident that had taken place on 12.01.2023. It is the case of the claimants that the deceased was walking on the extreme left side of the road and a car belonging to the first respondent and insured with the second respondent bearing registration No. TN 93-E-0465 was driven by its driver in a rash and negligent manner, without following the traffic rules and hit against the deceased. As a result of accident, the deceased received grievous injuries all over the body and died in hospital on 19.01.2023. Therefore, the claimants filed a claim petition before the Tribunal seeking compensation of Rs.50,00,000/-

3. Before the Tribunal, the contesting respondent namely insurance company filed counter affidavit and denied the manner of



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accident as narrated in the claim petition. It was the case of the second respondent that the accident had occurred only due to the act of the deceased, who fell down in front of the car and hence, the insurance company was not liable to pay compensation.

4. The Tribunal based on the evidence available on records, came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the first respondent and awarded a compensation of Rs.14,25,000/-. Not satisfied with the quantum of compensation, the claimants have come before this court.

5. Heard the learned counsel for the appellants and the second respondent insurance company.

6. The learned counsel for the appellants would submit that the deceased was a mason and the accident had occurred in the year 2023, however, the Tribunal fixed a very meager notional income of Rs.10,000/- including future prospects of 25%. Therefore, the notional income fixed by the Tribunal needs enhancement.



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7. The learned counsel for the second respondent/insurance company would submit that the claimants have not produced any documents to prove the avocation and income of the deceased and hence, the Tribunal was justified in fixing notional income at Rs.10,000/- per month including future prospects.

8. In order to prove the avocation and income of the deceased, the claimants have not produced any documentary proof. However, taking into consideration the year of accident, this court can fix notional income. Having regard to the year of accident (2023) and cost of living, this court feels that it would be appropriate to fix notional income at Rs.18,000/- per month. As per the Aadhaar card, age of the deceased was 43 years at the time of accident. Therefore, the claimants are entitled to 25% enhancement towards future prospects. The proper multiplier applicable to age of the deceased is 14. There are five persons depending on the income of the deceased. Hence, 1/4 should be deducted towards the personal expenses of the deceased. Accordingly, the claimants are entitled to Rs.28,35,000/- [$1800 \times 1.25 \times 12 \times 14 \times 3/4$] towards loss of dependency.



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9. The Tribunal awarded a sum of Rs.40,000/- towards consortium to the first claimant. As per the law laid down by the Hon'ble Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157*, the compensation amount fixed under heads loss of consortium, loss of love and affection, loss of estate and funeral expenses should be enhanced at 10% once in three years from the date of judgment (i.e. 31.10.2017). In the case on hand, the accident had occurred on 12.01.2023 and hence, the first claimant is entitled to Rs.44,000/- towards consortium. Likewise, the claimants 2 and 3 are also entitled to Rs.44,000/- each towards love and affection. The claimants 4 and 5 are entitled to Rs.44,000/- each towards loss of filial consortium.

10. The Tribunal awarded a sum of Rs.25,000/- towards funeral expenses. But, as per *Pranay Sethi case* cited supra, the claimants are entitled to Rs.16,500/- each towards funeral expenses and loss estate.

11. In view of the discussion made earlier, the compensation awarded by the Tribunal is revised as under:



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	12,60,000	28,35,000	enhanced
2	Loss of consortium to first claimant	40,000	44,000	enhanced
3.	Loss of love and affection to claimants 2 and 3	1,00,000	88,000	reduced
4.	loss of filial consortium to claimants 4 and 5	-	88,000	granted
5.	Loss of Estate	-	16,500	granted
6	Funeral expenses	25,000	16,500	reduced
	Total	14,25,000	30,88,000	enhanced by 16,63,000

12. With the above modifications, this **Civil Miscellaneous Appeal is allowed** and the compensation awarded by the Tribunal at Rs.14,25,000/- is hereby enhanced to **Rs.30,88,000/-** together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The claimants are directed to pay applicable court fee on the above mentioned enhanced compensation.



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13. From the above compensation now determined by this court, the first claimant is entitled to Rs.17,88,000/- and the claimants 2 and 3 are entitled to Rs.3,50,000/- each and the claimants 4 and 5 are entitled to Rs.3,00,000/- each.

14. The second respondent is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit, the claimants 1, 4 and 5 shall be permitted to withdraw their respective compensation along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

15. The second and third claimants being minors, their respective shares are directed to be invested in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which shall be renewed periodically until they attain



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majority and the 1st appellant/first claimant, being the Natural Guardian of the minors second and third claimants, is permitted to withdraw the interest accrued thereon **once in three months** and the same shall be used for the welfare of the minors claimants.

There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No
mst

To

1. The Special District Judge,
Motor Accident Claims Tribunal,
Salem.
2. The Section Officer,
V.R.Section, Madras High Court,
Chennai-104.



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S.SOUNTHAR, J.

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