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CMA.No.418 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.418 of 2025

1. Kavitha
2. Rahul (Minor)
3. Archana (Minor)
4. Padmavathy
2nd and third minor appellants are
rep. by their mother Kavitha ... Appellants

Vs.

1. R.Sivapatha Sekaran
2. The Oriental Insurance Co. Ltd.,
Oriental House, T.P. Hub: No.115,
Broadway Road, Chennai 600 108. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 as against the judgment and decree dated 15.11.2023 made in MACTOP No.30 of 2017 on the file of Special Sub Judge No.1, Motor Accident Claims Tribunal, Small Cause Court, Chennai.



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For appellants : Mr.F.Terry Chella Raja
for Mr.V.Velu

For Respondents : Mr.K.Swaminathan for second respondent

JUDGMENT

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

2. The first respondent remained exparte before the Tribunal and hence, notice to him is dispensed with.

3. It is not in dispute that the husband of the first claimant, father of the claimants 2 and 3 and son of the fourth claimant, namely Rajkumar died in a road accident that had taken place on 29.11.2016. The claimants filed Motor Accidents claims Original Petition seeking compensation of Rs.50,00,000/-. The Tribunal partly allowed the petition and granted compensation of Rs.22,11,000/-. Not satisfied with the quantum of compensation, the claimants have come before this court by filing the present appeal.



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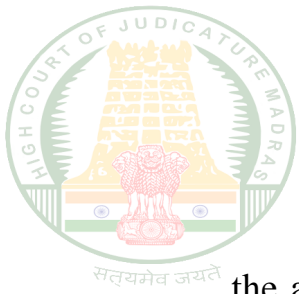
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4. Both the counsel for the appellants and the second respondent have not advanced any arguments on the question of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

5. The learned counsel for the appellants submits that the deceased was employed as a driver and earning a sum of Rs.25,000/- per month. However, the Tribunal fixed notional income at Rs.10,000/- per month, which is very meager and the same required to be enhanced.

6. 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. Therefore, the Tribunal was justified in fixing notional income at Rs.10,000/- per month.

7. In order to prove the avocation and income of the deceased, the first claimant was examined as PW1 and she deposed in line with



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the averments contained in the claim petition. The driving license of the deceased was marked as Ex.P4. However, no documentary evidence was produced to prove the income of the deceased. Therefore, taking into consideration that the accident had taken place in the year 2016, this court feels that, it would be appropriate to fix notional income of the deceased at Rs.15,000/-. The deceased was aged about 33 years at the relevant point of time and hence, 40% enhancement shall be given towards Future Prospects. At the time of accident, four persons were depending on the income of the deceased. Therefore after deducting 1/4 towards personal expenses of the deceased, the claimants are entitled to a sum of Rs.30,24,000/- [21,000 (15000 + 6000) x 12 x 16 x 3/4] towards loss of dependency. Accordingly, the amount awarded under Loss of Dependency is enhanced from Rs.20,16,000/- to Rs.30,24,000/-.

8. As far as the compensation awarded by the Tribunal under other conventional heads are concerned, no arguments have been advanced by the counsel on either side and hence, the same are confirmed.



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9. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	20,16,000	30,24,000	enhanced
2.	Loss of consortium	1,60,000	1,60,000	confirmed
3.	Loss of estate	15,000	15,000	confirmed
4.	Funeral expenses	15,000	15,000	confirmed
5.	Transport charges	5,000	5,000	confirmed
6	Total	22,11,000	32,19,000	enhanced by 10,08,000

10. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.22,11,000/- is hereby enhanced to **Rs.32,19,000/-** together with interest at 7.5% per annum (excluding the default period, if any) from the date of claim petition till the date of deposit.

11. 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



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period of **four weeks** from the date of receipt of a copy of this judgment.

12. The first appellant/first claimant is entitled to Rs.14,19,000/- and the fourth appellant/fourth claimant is entitled to Rs.3,00,000/-. The minor claimants 2 and 3 are entitled to Rs.7,50,000/- each and their respective share shall be deposited in any one of the nationalized banks initially for a period of 3 years and the same shall be renewed periodically till their attainment of majority. The first claimant is entitled to withdraw the accrued interest thereon once in six months and the same should be used for the welfare of the minor claimants 2 and 3.

13. The first and fourth claimants/ first and fourth appellants shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal. There shall be no order as to costs.

17.02.2025

Index:Yes/No
Internet:Yes/No
mst



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WEB COPY **To**

1. The Special Sub Judge No.1
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.



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S.SOUNTAR, J.

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