



CMA.No.121 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

CORAM

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

CMA.No.121 of 2025

1. R.Selvi
 2. R.Inbha
- ...Appellants

Vs.

1. C.Muthuraman
 2. Oriental Insurance Company Limited,
Motor Third Party Claims Office – HUB,
No.115, Prakasam Salai, Broadway,
Chennai – 600 108.
- ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 27.11.2023 made in MCOP.No.3532 of 2021 on the file of the Motor Accidents Claims Tribunal, IV Judge, Court of Small Causes, Chennai.

For Appellants : M/s.P.T.Saleem Fathima
for M/s.M.S.Elangovan Law Associates

For Respondents : Mr.J.Chandran, for R2
: Notice dispensed with, for R1



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JUDGMENT

Challenging the judgment and decree dated 27.11.2023 made in MCOP.No.3532 of 2021 on the file of the Motor Accidents Claims Tribunal, IV Judge, Court of Small Causes, Chennai, the claimants have come up with this appeal.

2. Mr.J.Chandran, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. Since the 1st respondent remained exparte before the trial court, notice to the 1st respondent is dispensed with.

4. It is the case of the claimants that, on 23.02.2021 at about 18.00 hours, when the deceased Ravichandran was travelling as a pillion rider in the motorcycle bearing Regn.No.TN-48-AZ-7891 in Trichy-Madurai National Highway from Viralimalai Cutt Road from east to west, at that time, a car bearing Regn.No.TN-55-Y-8060, owned by the 1st respondent



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insured with the 2nd respondent driven by its driver came in a rash and negligent manner and dashed against the above said motorcycle, due to which the deceased sustained fatal injuries and succumbed to the same. Thereby, the appellants, who are the dependents of the deceased Ravichandran filed a claim petition in MCOP.No.3532 of 2021 claiming a compensation of Rs.30,00,000/-. Before the Tribunal, the claimants examined two witnesses viz. P.W.1 and P.W.2 and marked exhibits P.1 to P.10 and on the side of respondents, one witness viz., R.W.1 was examined and exhibits R.1 to R.3 were marked. After trial, the Tribunal, on appreciation of oral and documentary evidence, though 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 vehicle, however, awarded a meagre amount of Rs.10,76,900/- towards compensation for the death of the deceased Ravichandran. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellants/claimants have come up with this appeal.

5. Learned counsel for the appellants submitted that the above said accident happened solely due to the rash and negligent driving on the



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part of the driver of the 1st respondent vehicle and the accident is of the year 2021 and at the time of accident, the deceased was only aged about 55 years and was working as a Astrologer and was earning a sum of Rs.30,000/- per month, however, the tribunal had taken the notional income of the deceased as Rs.12,000/-, which is very meagre and the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be increased to Rs.20,000/- and 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.

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, he prays for dismissal of the appeal.

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



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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 2021 and at the time of accident, the deceased was aged about 57 years and he was an Astrologer by profession and the Tribunal has fixed the notional monthly income at Rs.12,000/-, which is on the lower side. 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.18,000/- and adding future prospects at 10%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in **2017 (16) Supreme Court Cases 680**, the income per month is quantified at Rs.19,800/-. Deducting 1/3rd towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.13,200/- per month and the deceased being aged about 57 years, as evidenced from



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the records, adopting the multiplier of 9 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 income to the family is arrived at Rs.13,200/- * 12 * 9 = Rs.14,25,600/-.

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.

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

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	9,50,400/-	14,25,600/-
Loss of consortium	88,000/-	88,000/-
Funeral Expenses	16,500/-	16,500/-
Loss of estate	16,500/-	16,500/-
Transportation expenses	5,500/-	5,500/-
Total	10,76,900/-	15,52,100/-



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12. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.3532 of 2021 is modified by enhancing the compensation amount from **Rs.10,76,900/-** to **Rs.15,52,100/-**. The 2nd respondent Insurance is directed to deposit the said amount to the credit of MCOP.No.3532 of 2021 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. The appellants are entitled to get the award amount of Rs.7,76,050/- each with proportionate interest and costs. On such deposit being made, the Tribunal is directed to transfer the compensation amount directly to the bank accounts of the appellants through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. Further, as ordered by the



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tribunal, liberty is granted to the 2nd respondent to recover the said amount from the 1st respondent in the manner known to law. It is underscored that the appellants are not entitled to any interest for the default period, if any. No costs.

24.01.2025

skt

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

The Motor Accidents Claims Tribunal,
IV Judge, Court of Small Causes, Chennai.



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M.DHANDAPANI, J.

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