



CMA.No.715 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :12.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.715 of 2025

1.Prema

2.Minor Deepika

3.Minor Gokulanath

4.Pappathi

5.Vellaiyan

... appellantss

Vs.

1.The Chairman

Swami Vivekanandha Naturopathy and

YogaMedical College,

Veerachipalayam, Sankari Taluk, Salem District

2.Reliance General Insurance Co. Ltd

H Block, 4th St, D.No.12,

H 2035, 15th Main Road, Anna Nagar (West),

Chennai District-600 101

Having Branch Office at Sree Lakshmi Complex, 1st Floor,

Omalur Main Road, Bharathi Street,

Swarnapuri, Salem District

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the appeal as prayed for and enhance the award passed in MCOP No.688 of 2023, dated 01.03.2024, on the file of MACT, Special District Judge, Salem.



CMA.No.715 of 2025

WEB COPY

For appellantss : Mr.R.Navaneetha Krishnan
For Respondent : M/s.P.Suresh Srinivasan for R2
R1- Notice dispensed with

JUDGMENT

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the claimants have come before this court by way of this appeal.

2. It is not in dispute that the husband of the first claimant, father of the minor claimants 2 and 3 and son of the claimants 4 and 5 namely Gunasekaran died in a road accident that had taken place on 01.03.2023. It was the case of the claimants that the said Gunasekaran was slowly riding his two-wheeler on extreme left side of the Sankari-Edappady Main Road. When he was nearing kallukadai bus stop, the bus belonged to the first respondent insured that the second respondent came in a rash and negligent manner and dashed against the two-wheeler from behind. As a result of the accident, the said Gunasekaran sustained grievous injuries and died. Therefore, the claimants, who are all dependants of the deceased, laid a claim petition seeking compensation of Rs.50,00,000/-.



CMA.No.715 of 2025

WEB COPY

3. The first respondent reminded *exparte* before the Tribunal and the claim petition was opposed by the second respondent/insurance company mainly on the ground that the negligence was on the part of the deceased.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the first respondent. The compensation payable to the claimants was quantified at Rs 23,15,000/- Not satisfied with the quantum, the claimants have come before this court.

5. Both the learned counsel for the appellantss as well as the learned counsel for the 2ndrespondent/ insurance company have not advanced any arguments on the questions of negligence as well as liability. Hence, the facts necessary to decide those questions are not discussed in this appeal.



CMA.No.715 of 2025

WEB COPY

6. The learned counsel for the appellants submitted that the deceased was a Carpenter by profession and he was earning a sum of Rs. 30,000/- per month at the time of accident. The Tribunal fixed only Rs.10,000/- including future prospects as notional income and the same is very much on the lower side. Hence, he sought for enhancement of notional income.

7. The learned counsel for the second respondent /Insurance Company submitted that the claimants miserably failed to lead any evidence to prove the avocation and income of the deceased. Hence, the Tribunal was justified in fixing Rs.10,000/- as notional income including future prospects.

8. In the claim petition, it was averred by the claimants that the deceased was employed as a Carpenter and earning a sum of Rs.30,000/- per month. However, the claimants have not produced any material to prove the income of the deceased. Even though there is no



CMA.No.715 of 2025

WEB COPY evidence to prove the income of the deceased, this Court can fix the notional income by taking into consideration the facts and circumstances of the case. In the case on hand, the accident had occurred on 01.03.2023. Taking into consideration the date of accident and the prevailing cost of living, this Court is inclined to fix Rs.18,000/- as notional income for the deceased.

9. As per Exhibit P9, Aadhar card, the Tribunal fixed the age of the deceased at 37 years. Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 15. Since there are five dependants, one-fourth of the amount has to be deducted towards personal expenses. Therefore, the claimants are entitled to Rs.34,02,000/- towards loss of dependency which is calculated as follows:-

$$\text{Rs.18,000} \times 1.4 \times 12 \times 15 \times 3 / 4 = \text{Rs.34,02,000/-}$$

10. The Tribunal awarded Rs.40,000/- towards loss of consortium to first claimant. Since the accident had occurred more than three years



CMA.No.715 of 2025

WEB COPY after pronouncement of the judgment in ***Pranay Sethi*** case

(31.10.2017), the claimants are entitled to 10% enhancement.

Therefore, the first claimant is entitled to Rs.44,000/- towards the loss of consortium. The minor claimants 2 and 3 are entitled to Rs.44,000/- each towards the loss of love and affection. The claimants 4 and 5 are entitled to Rs.44,000/- each towards the loss of parental consortium.

The Tribunal awarded a sum of Rs.1,00,000/- under the head loss of love and affection and the same is enhanced to Rs.1,76,000/-(Rs.44,000 x 4). The amount awarded by the Tribunal under the head loss of love and affection is converted as loss of love and affection for claimants 2 and 3 and loss of parental consortium for claimants 4 and 5. In all, Rs.1,76,000/- is awarded under the said head. The amount of Rs.8,00,000/- awarded by the Tribunal under the head medical expenses is based on the evidence and the same is confirmed. The Tribunal awarded Rs.25,000/- under the head funeral expenses. As per the law laid down in ***Pranay Sethi*** case, the claimants are entitled to Rs.33,000/- under the head funeral expenses and loss of estate.



CMA.No.715 of 2025

WEB COPY

11. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:-

Sl • No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	13,50,000/-	34,02,000/ -	Enhanced
2.	Medical expenses	8,00,000/-	8,00,000/-	Confirmed
3.	Funeral expenses (converted as Funeral expenses and loss of estate)	25,000/-	33,000/-	Enhanced
4.	Loss of Consortium (1 st claimant)	40,000/-	44,000/-	Enhanced
5	Loss of love and affection to claimants 2 to 5(converted as loss of love and affection and loss of parental consortium)	1,00,000/-	1,76,000/-	Enhanced
	Total	23,15,000/-	44,55,000/ -	Enhanced by Rs.21,40,00 0/-/-



CMA.No.715 of 2025

WEB COPY

12. With the above modifications, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.23,15,000 /- is hereby enhanced to Rs.44,55,000/-. The appellants are entitled to interest at the rate of 7.5% per annum(excluding the delay period, if any) from the date of filing of the claim petition till the date of realization. The 2nd respondent/ Insurance company is directed to deposit the enhanced award amount, to the credit of MCOP. No.688 of 2023 on the file of MACT, Special District Judge, Salem, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment.

13. As far as apportionment is concerned, the share of the 1st appellant/wife of the deceased is fixed at Rs.18,55,000/-. The share of the minor appellants 2 & 3/minor claimants 2 and 3 is fixed at Rs.8,00,000/- each and the share of the appellants 4 and 5 is fixed at Rs.5,00,000/- each.



CMA.No.715 of 2025

WEB COPY

14. The 2nd and 3rd appellants, being minors, their share of award amount is directed to be deposited 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 majority and the 1st appellant, being the Natural Guardian of the minor 2nd and 3rd appellants, is permitted to withdraw the interest accrued thereon **once in three months** and the same shall be used for the welfare of the minor 2nd and 3rd appellants. The appellants 1, 4 and 5 are entitled to withdraw their share of compensation amount, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The appellants are directed to pay the applicable additional court fee. No costs.

12.03.2025

Index: Yes/No
Internet: Yes/No
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CMA.No.715 of 2025

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To

1. Motor Accident Claims Tribunal,
Special District Judge, Salem.
2. The Section Officer,
VR Section,
High Court, Madras.



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CMA.No.715 of 2025

S.SOUNTCHAR, J.

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CMA No.715 of 2025

12.03.2025