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CMA No. 2965 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 09-06-2025**

CORAM

**THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI**

**CMA No. 2965 of 2023**

1. BAYRAPPA

S/o. Nethappa D.No.21,2/18-1,  
Kothapalli Village, Binnamangalam  
Post, Denkanikottai Taluk, Krishnagiri  
Dist. and 2 Others

2. Kanthamma

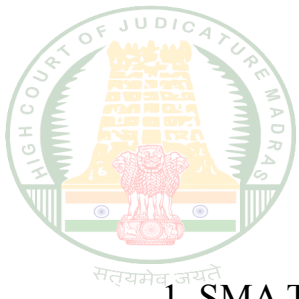
D/o. Bayrappa D.No.21,2/18-1,  
Kothapalli Village, Binnamangalam  
Post, Denkanikottai Taluk, Krishnagiri  
Dist.

3. Manjula

D/o. Bayrappa D.No.21,2/18-1,  
Kothapalli Village, Binnamangalam  
Post, Denkanikottai Taluk, Krishnagiri  
Dist.

Appellant(s)

Vs



1. SMA Transports

Rep by its Proprietor Attibele Anekal  
TK, Bangalore 562107, Karnataka

2. The General Manager

The Oriental Insurance Co.Ltd.  
No.7, Rosy Towers, 2nd Floor,  
Nungambakkam High Road,  
Nungambakkam, Chennai 034.

Respondent(s)

**PRAYER :-** Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to enhance the compensation amount and fix the entire liability on the 2<sup>nd</sup> respondent made in Judgment and decree dated 13-04-2022 made in MCOP.No.56/2020 on the file of the Motor Accident Claims Tribunal and Additional District Judge, Hosur.

For Appellants: Mr. S.P.Yuaraj

For Respondents: Mrs.R.Sree Vidhya For R2  
R1 – Dispensed with

### **JUDGMENT**

Challenging the impugned award passed by the tribunal in MCOP.No.56 of 2020, the petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.



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2. The claimants are father and sisters of deceased. The case of the claimants is that on 09.07.2019 at about 13.15 hours, the petitioner's son was riding his two wheeler bearing Regn. No. TN-70 K-5077 in Bagalore to Hosur Road. While nearing Liberty show room, the driver of Tipper Lorry bearing Regn. No. KA-59-0947 drove it in a rash and negligent manner without any signal or sound in the opposite direction from Hosur towards Bagalore, dashed the petitioner's two wheeler and caused an accident. Due to which, the deceased sustained fatal injuries, for which he underwent treatment in the hospital, but he died inspite of treatment. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.40,00,000/-.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1<sup>st</sup> respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.9,36,792/- under various heads as follows:



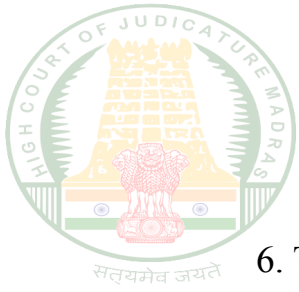
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| S.No | Compensation awarded under the head                                                                | Amount (in Rs.)  |
|------|----------------------------------------------------------------------------------------------------|------------------|
| 1.   | Compensation for loss of dependency after multiplier of '16' is applied (As per Sarala Varma case) | 10,75,200        |
| 2.   | Parental consortium (1 <sup>st</sup> petitioner)                                                   | 40,000           |
| 3.   | Transportation                                                                                     | 5,000            |
| 4.   | Funeral expenses                                                                                   | 15,000           |
| 5.   | Loss of estate                                                                                     | 15,000           |
| 6.   | Medical expenses                                                                                   | 20,790           |
|      | <b>Total compensation awarded (by adding Sl. Nos. 1 to 6)</b>                                      | <b>11,70,990</b> |
|      | Less :- 20% towards contributory negligence                                                        | 2,34,198         |
|      | <b>Net Compensation</b>                                                                            | <b>9,36,792</b>  |

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The learned counsel for appellants would argue that the accident was happened in the year 2019, but without considering the cost of living at that time, the tribunal had fixed the notional income as Rs.8000/-. Hence, they prayed for enhancement of compensation.



6. The learned counsel for 2<sup>nd</sup> respondent raised objections stating that the deceased was a Bachelor and since there is no income earned by him, the Tribunal had rightly fixed the notional income as Rs.8000/-, which needs no interference.

7. Heard rival submissions of both learned counsel for appellants and respondents and perused the materials available on record.

8. On seeing the facts, it reveals that the accident was happened in the year 2019, even per day the income is to be considered as a sum of Rs.500/-, he would have earned Rs.15,000/-. Therefore, this Court is inclined to enhance the notional income of the deceased Nagaraj from Rs.8000/- to Rs.15000/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

9. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

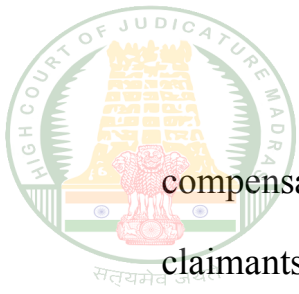


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| S.No | Compensation awarded under the head                                                                                                                                                                                                                                   | Amount (in Rs.)  |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 1.   | Compensation for loss of dependency after multiplier of '16' is applied (As per Sarala Varma case)<br>Rs.15000/- (add 40% future prospects)<br>= 15000 + 6000 = 21000<br>21000 (less 50% deduction)<br>21000-10500= 10500<br>10500 x 12 x 16 (multiplier) = 20,16,000 | 20,16,000        |
| 2.   | Parental consortium (1 <sup>st</sup> petitioner)                                                                                                                                                                                                                      | 40,000           |
| 3.   | Transportation                                                                                                                                                                                                                                                        | 5,000            |
| 4.   | Funeral expenses                                                                                                                                                                                                                                                      | 15,000           |
| 5.   | Loss of estate                                                                                                                                                                                                                                                        | 15,000           |
| 6.   | Medical expenses                                                                                                                                                                                                                                                      | 20,790           |
|      | <b>Total compensation awarded (by adding Sl. Nos. 1 to 6)</b>                                                                                                                                                                                                         | <b>21,11,790</b> |
|      | Less :- 20% towards contributory negligence                                                                                                                                                                                                                           | 4,22,358         |
|      | <b>Net Compensation</b>                                                                                                                                                                                                                                               | <b>16,89,432</b> |
|      | <b>Rounded of</b>                                                                                                                                                                                                                                                     | <b>16,89,440</b> |

10. Accordingly, the compensation awarded by the tribunal at Rs.9,36,792/- is enhanced to Rs.16,89,440/-. Insofar as the enhanced



compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of this judgment.

11. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

**09-06-2025**

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Addl. District Judge, Hosur.
2. Section Officer, VR Section, Madras High Court.



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**T.V.THAMILSELVI J.**

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