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CMA No. 1823 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1823 of 2024

1. Rajammal
2. S.Gokilavani
3. R.Gowrishankar
4. R.Abirami

Appellants

Vs

1. G.Vijayarani
- 2.The New India Assurance Company
Ltd.,
D.No.21/2, MSC Complex, 1st Floor,
Dharmapuri Main Road, Omalur,
Salem, Salem District.

Respondents

PRAYER

Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to enhance compensation in Judgment and decree dated 03.11.2022 in M.C.O.P. No. 215 / 2021 on the file of the Special District Judge, MCOP Tribunal at Salem.



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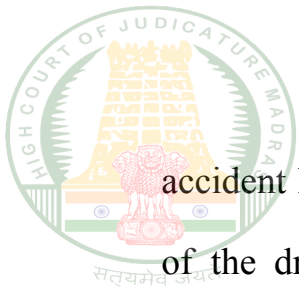
For Appellant(s): Mr.R.Nalliyappan

For Respondent(s): Mr.Krishna Moorthy For R2
R1 - Dispensed With**JUDGMENT**

Challenging the impugned award passed by the tribunal in MCOP.No.215 of 2021, the appellants/petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The appellants are wife, daughters and son of deceased Rajendran. The case of appellants is that on 11.10.2020 at about 08.00 p.m. when the deceased was riding his two wheeler bearing Regn. No. TN-30 AU-4659 in the service road opposite to Thnathanthi office from east to west on his left side, at that time, the driver of a car bearing Regn. No. TN-54-Q-4647 drove it in a rash and negligent manner , dashed the deceased two wheeler and caused an accident. Due to which, the deceased sustained grievous injuries all over the body, 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.15,00,000/-.

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 driver of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.3,25,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Medical expenses	3,00,000
2.	Transportation expenses	25,000
	Total compensation awarded (by adding Sl. Nos. 1 to 5)	3,25,000

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 deceased was died due to the injury sustained in the accident, but the tribunal has not considered the same and awarded the compensation only for injury without considering the fact that the injury was the cause of death. Hence, they prayed for enhancement of compensation.

6. The learned counsel for 2nd respondent raised objections stating that he has sustained fracture in his right leg, for which he took treatment and completely recovered. Thereafter, he sustained with Covid-19 virus, due to that



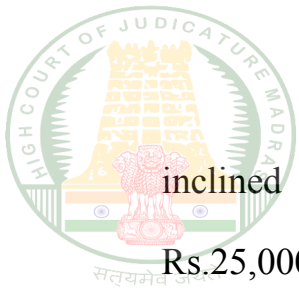
only, he died in the hospital. Hence, the Tribunal had rightly awarded compensation, which needs no interference.

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7. Heard rival submissions of both learned counsel for appellants and 2nd respondent and perused the materials available on record.

8. Considering both side submissions and on perusal of evidence of P.W.2, who was a Doctor examined on the side of appellants and he was a Cardiologist in a private hospital stated that the deceased was admitted in the hospital at that time, he was suffered with lungs infection. Therefore, the evidence of P.W.2 clearly reveals that he was aged about more than 52 years and he suffered with corana. Hence, he was not died due to the accident and he was suffered with breathing issue. Accordingly, he was not died due to the injury sustained in the accident and the tribunal has rightly observed the same, which needs no interference.

9. Moreover, with regard to the monthly income of deceased, the tribunal has not awarded any sum under the said head. On seeing the facts, it reveals that the deceased was a Supervisor in ARRS Textile shop at the time of accident, thereby he had earned a sum of Rs.25,000/- per month. So, on considering the fact that the accident was happened in the year 2020, considering his profession, considering his age and considering the cost of living at that time, this Court is



inclined to fix notional monthly income of the deceased Rajendran as Rs.25,000/- and also inclined to award the said sum for the period of three months. As he had underwent surgery and admitted as inpatient in hospital for more than 12 days, he was in need of an attender, for which, the tribunal has not awarded any sum under the said head. Therefore, this Court is inclined to award a sum of Rs.20,000/- towards attender charges. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

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

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	Medical expenses	3,00,000	3,00,000	confirmed
2.	Transportation expenses	25,000	25,000	confirmed
3.	Loss of income (Rs.25,000 x 3 months)		75,000	awarded
4.	Attender charges		20,000	awarded
	Total	3,25,000	4,20,000	enhanced

11. Accordingly, the compensation awarded by the tribunal at Rs.3,25,000/- is enhanced to Rs.4,20,000/-. 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 copy of this judgment. On such deposit of the enhanced compensation amount now determined by this Court, the appellants 1 to 4 are entitled to share the amount proportionately as ordered by the Tribunal and they are permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. 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 interest for the delay period is ordered to be waived.

12. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

28-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Special District Court, Salem.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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