



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 3442 of 2024

1. Bakkiyam
2. Archana
3. Minor Arthi
D/o.Ramesh, Minor rep by their mother
Bakkiyam.
4. Minor Iyyappan
S/o.Ramesh, Minor rep by their mother
Bakkiyam,

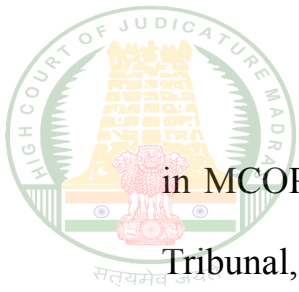
Appellants

Vs

1. Krishnamurthy
- 2.Sriram General Insurance Company Ltd.,
1st Floor, Plot No.5, Ramachandran Street,
Seevaram, Perungudi, Chennai - 96.

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to allow this appeal by enhancing the award passed by the Tribunal



in MCOP 89/2023 dated 31.10.2023 on the file of the Motor Accident Claims Tribunal, III Addl. District and Sessions Judge, Cuddalore at Vridhachalam.

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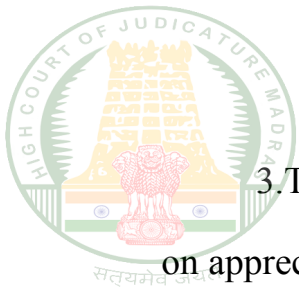
For Appellant(s): Mr.S.Udhayakumar

For Respondent(s): Mrs. R.Sree Vidhya For R2
R1 - Unclaimed

JUDGMENT

Challenging the impugned award passed by the tribunal in MCOP.No.89 of 2023, the appellants/petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The appellants are wife, daughters and son of deceased Ramesh. The case of the appellants is that on 25.12.2022 at about 11.00 hours, the 1st petitioner's husband was riding his two wheeler towards Vridhachalam from Andimadam, in front of Anandharaj house, at that time, the driver of a car bearing Regn. No. TN-12 J-2918 drove it in a rash and negligent manner without any signal or sound dashed the petitioner's two wheeler and caused an accident. Due to which, the deceased was thrown out and sustained head 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.49,00,000/-.

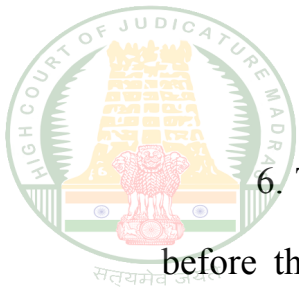


3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.14,82,500/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	14,17,500
2.	Loss of consortium	40,000
3.	Funeral expenses	15,000
4.	Transportation expenses	10,000
	Total	14,82,500

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 2022 and the deceased had worked as a loadman in the market. He would submit that as per the certificate issued by merchant, he could earn a sum from Rs.500/- to Rs. 1300/-, but the tribunal had fixed the notional income as Rs.9000/- without considering the cost of living at that time. Hence, they prayed for enhancement of compensation.



6. The learned counsel for 2nd respondent insurance company argues that before the tribunal, they have not produced the salary proof for the income derived by him as a loadman. Hence, the Tribunal had rightly fixed the notional income as Rs.9000/-, which needs no interference.

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

8. On seeing the facts, it reveals that the accident was happened in the year 2022 and he was a loadman in the market and weekly pig meat merchant and he was aged about 39 years. Therefore, considering his age as well as the cost of living at that time and fluctuation of price, this Court is inclined to enhance the notional income of the deceased Ramesh from Rs.9000/- to Rs.17000/-. Furthermore, the deceased legal heirs are his wife, his daughters and his son, but the tribunal has granted only a sum of Rs.40,000/- under the head of 'Loss of consortium'. Hence, each of his legal heirs are entitled for a sum of Rs.40,000/- under this head. Accordingly, the total compensation under this head is fixed at Rs.1,60,000/- (Rs.40,000/- x 4). 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 awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	For loss of income Rs.17,000/- (add 25% future prospects) = 17000 + 4250 =21250 21250 x 12 x 14 (multiplier) = 35,70,000 – 1/4 (8,92,500) = 26,77,500	14,17,500	26,77,500	enhanced
2.	Loss of consortium (Rs.40000 x 4)	40,000	1,60,000	enhanced
3.	Funeral expenses	15,000	15,000	confirmed
4.	Transportation expenses	10,000	10,000	confirmed
	Total	14,82,500	28,62,500	enhanced

10. Accordingly, the compensation awarded by the tribunal at Rs.14,82,500/- is enhanced to Rs.28,62,500/-. 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. 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. It goes without saying that the enhanced compensation that is paid by the Insurance Company can be recovered from the owner of the vehicle as was ordered by the Tribunal.



11. On such deposit of the enhanced compensation amount now determined by this Court, the appellants 1 and 2 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. As far as the share of minor appellants viz., 3rd and 4th appellants are concerned, the same shall be deposited in any nationalised bank bearing fixed deposit scheme until the minor attains majority and the interest thereon shall be withdrawn by minor appellants' mother, once in three months.

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

15-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, III Addl. District and Sessions Judge, Cuddalore at Vridhachalam.

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



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T.V.THAMILSELVI J.

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