



C.M.A.No.359 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.359 of 2025

1.Sumathi

2.Minor Vidyaharan

3.Minor Dhanusha

(Minors are Rep by Next Friend/Mother/Sumathi)

4.R.Kannayan

5.Munemma

... Appellants

VS.

1.S.Anbukumar

2.The Manager,

IFFCO Tokio General Insurance Co. Ltd.,

Adhithiya Building, 2nd Floor, S.N.R. Hospital Circle,

Bangarpet Road, Kolar, Karnataka – 563 101.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation amount made in Order dated 06.02.2024 made in M.C.O.P.No.1347 of 2021 on the file of the MACT Tribunal, Special District Court, Krishnagiri by allowing this Civil Miscellaneous Appeal.



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For Appellants : Mr.S.P.Yuaraj
For R2 : M/s.K.Poomalai
For R1 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Court, Krishnagiri in M.C.O.P.No.1347 of 2021, dated 06.02.2024, the claimants have come by way of this appeal seeking enhancement.

2. According to the appellants/claimants, the husband of the 1st claimant, father of the claimants 2 and 3 and son of the claimants 4 and 5 namely Govindasami died in a road accident that had occurred on 15.08.2021. According to the claimants, the deceased was driving his motorcycle bearing Registration No.AP-03-AZ-2206 slowly and steadily by observing all traffic rules on the extreme left hand side of the road. When he came near Settiganikunta Village on Kuppam to Mallanur Road, a motorcycle bearing Registration No.KA-08-X-1473 belonged to the 1st respondent and insured with the 2nd respondent came in the opposite



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direction in a rash and negligent manner and dashed against the two wheeler of the deceased. Due to the impact, the deceased fell down from the vehicle and sustained grievous injuries. Later, he succumbed to various injuries. Hence, the claim petition was filed seeking compensation of Rs.50,00,000/-.

3. The owner of the offending vehicle namely the 1st respondent remained *exparte* and claim petition was opposed by the insurer of the offending vehicle by filing counter. It was the case of the insurer that the deceased attempted to overtake a lorry and dashed against the 1st respondent's motorcycle. Therefore, according to the insurer of the offending vehicle the entire negligence was on the part of the deceased.

4. Before the Tribunal, the 1st appellant/1st claimant was examined as PW.1 and an eye-witness was examined as PW.2 and 10 documents were marked as Exs.P1 to P10 on behalf of the claimants. On behalf of the respondents, no witnesses were examined and no documents were marked.

5. The Tribunal based on the oral evidence of PW.1, PW.2 and contents of FIR-Ex.P1, came to the conclusion that accident had occurred



only due to the negligence on the part of the driver of the 1st respondent's vehicle insured with the 2nd respondent. The compensation payable to the claimants was quantified at Rs.25,21,000/-. Not satisfied with the quantum of compensation, the claimants have come before this Court.

6. The learned counsel appearing for the appellants/claimants as well as the learned counsel appearing for the 2nd respondent-Insurance Company have not advanced any arguments on the questions of negligence and liability. Therefore, facts necessary to decide those questions are not discussed in this judgment.

7. The learned counsel appearing for the appellants/claimants would submit that the Tribunal fixed very meagre amount of Rs.12,000/- as notional income and the same requires enhancement.

8. The learned counsel appearing for the 2nd respondent-Insurance Company would submit that claimants have not produced any documentary evidence to prove the avocation and income of the deceased and hence, the Tribunal was justified in fixing reasonable amount of Rs.12,000/- as



notional income.

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9. In the claim petition, it was stated by the claimants that the deceased was working as a Building Centering Worker and was earning a sum of Rs.50,000/- per month. However, in order to prove the avocation and income of the deceased, the claimants have not produced any documentary evidence. It is settled law, even in the absence of any evidence to prove the income, this Court can fix notional income by taking into consideration the facts and circumstances of the case. In the case on hand, the accident had occurred in the year 2021. Therefore, 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. As per Ex.P2-Post Mortem Certificate, 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 dependents, 1/4th of the amount shall be deducted towards his personal expenses. Accordingly, the loss of dependency is fixed at Rs.34,02,000/- (Rs.18,000 x 1.4 x 12 x 15 x 3/4).



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10. In addition to the above said amount, the Tribunal awarded Rs.16,500/- each towards loss of estate and funeral expenses. The Tribunal also awarded Rs.44,000/- each under the heads loss of consortium to wife, loss of filial consortium to parents and loss of love and affection to children. The said amounts are in accordance with law laid down by the Apex Court in *National Insurance Company Limited vs. Pranay Sethi and others* reported in (2017) 16 SCC 680 and hence, they are affirmed.

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

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Dependency	Rs.22,68,000/-	Rs.34,02,000/-	Enhanced
2.	Loss of Estate	Rs.16,500/-	Rs.16,500/-	Confirmed
3.	Funeral Expenses	Rs.16,500/-	Rs.16,500/-	Confirmed
4.	Loss of Consortium	Rs.2,20,000/-	Rs.2,20,000/-	Confirmed
Total		Rs.25,21,000/-	Rs.36,55,000/-	Enhanced by Rs.11,34,000/-

12. Therefore, the total compensation payable to the claimants is enhanced to Rs.36,55,000/-. Out of the above said amount, the 1st claimant-wife of the deceased is entitled to Rs.15,55,000/-. The minor children of the



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deceased namely claimants 2 and 3 are entitled to Rs.8,00,000/- each. The 4th claimant-father of the deceased is entitled to Rs.1,50,000/-. The 5th claimant-mother of the deceased is entitled to Rs.3,50,000/-.

13. The 2nd Respondent-Insurance Company is directed to deposit the enhanced award amount of Rs.36,55,000/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.1347 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the claimants 1, 4 and 5 are permitted to withdraw their respective share of the award amount by making formal application before the Tribunal.

14. The share of the minor claimants 2 and 3 shall 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/1st claimant, being the Natural Guardian of the minor claimants 2 and 3, is permitted to withdraw the interest accrued thereon **once in three months** and the same shall be used for the welfare of the minor claimants 2 and 3 .



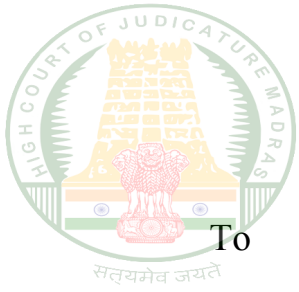
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WEB COPY 15. The appellants/claimants are directed to pay applicable additional court fee. It is made clear that the claimants are not entitled to claim interest for the delay period of 138 days as per the order made in C.M.P.No.28950 of 2024, dated 28.01.2025.

16. With the above directions, the Civil Miscellaneous Appeal is allowed. No costs.

29.04.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm



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To

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- 1.The MACT Tribunal, Special District Court,
Krishnagiri.
- 2.The Manager,
IFFCO Tokio General Insurance Co. Ltd.,
Adhithiya Building, 2nd Floor, S.N.R. Hospital Circle,
Bangarpet Road, Kolar, Karnataka – 563 101.
- 3.The Section Officer,
VR Section, High Court,
Madras.



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S.SOUNTHAR, J.

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