



CMA.No.535 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated 24.02.2025**

CORAM:

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CMA No.535 of 2025**

1.Manjula  
2. Minor Madhukiran  
3. Minor Rasmitha  
4. Minor Rasimini  
(minors are rep.by their next friend/mother  
Manjula)

... Appellants

**Vs.**

1. H.M.Ragavendra  
  
2. The Manager,  
Bajaj Allianz General Insurance Co., Ltd.,  
Plot No. OG-22-9906 - 1803,  
Reg. Head Office:  
Bajaj Allianz House, Airport Road,  
Yerwad, Pune City,  
(Local Office at: first floor, G.S.N.Arcade,  
Near Vimala Devi Kalyana Mandapam,  
Krishnagiri Bye Pass Road, Housur 635 109.

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in MCOP No.1143 of 2022 on the file of the Special District Court, Motor Accident Claims Tribunal, Krishnagiri.



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For appellants : Mr.S.P.Yuvaraj  
For Respondents : Mr.Michael Visuvasam,  
for second respondent

### **JUDGMENT**

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come before this court by filing the present appeal.

2. The first respondent remained exparte before the Tribunal.  
Hence, notice to the first respondent is dispensed with.

3. Heard the learned counsel for the appellants and the second respondent/insurance company.

4. It is not in dispute that on 02.01.2022, the husband of the first claimant and the father of claimants 2 to 4 travelled as a pillion rider in a two wheeler bearing registration No.TN-70-Z-4910 from Hosur to Thally Road. The rider of the two wheeler was driving the vehicle in a slow and steady manner and while nearing Old Anekkal Diversion



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Road at Karnoor, a car bearing registration No.KA-11-B-2868 belonging to the first respondent, insured with the second respondent came in the opposite direction in a rash and negligent manner and hit against the two wheeler and due to the said accident, the husband of the first claimant sustained fatal injuries and died on 03.01.2022 in hospital. The claimants laid a claim petition seeking compensation of Rs.60,00,000/- and based on the evidence available on records, the Tribunal awarded a sum of Rs.24,77,000/-. Not satisfied with the quantum of compensation, the claimants have come before this court by filing the present appeal.

5. Both the counsel for the appellants and the second respondent have not advanced any arguments on the questions of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

6. The learned counsel for the appellants/ claimants would submit that the accident had taken place in the year 2022, however, the Tribunal fixed notional income only at Rs.12,000/- and the same requires enhancement.



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7. The learned counsel for the second respondent/insurance company would submit that in order to prove the income of the deceased, the claimants have not produced any documents. Therefore, the Tribunal fixed notional income of the deceased at Rs.12,000/- per month and the same is reasonable.

8. In the claim petition, it was averred by the claimants that the deceased was employed as a painter and was earning a sum of Rs.35,000/- per month. However, the claimants have not produced any documentary evidence to prove the avocation and income of the deceased. If no documentary evidence is produced, the Tribunal can fix notional income by considering the facts and circumstances of the case. The accident had occurred on 02.01.2022. Therefore, taking into consideration the year of accident and prevailing cost of living, this court feels that it would be appropriate to fix notional income at Rs.18,000/-.

9. Based on the Postmortem Certificate and Aadhaar Card, the Tribunal fixed the age of the deceased as 37 years. Therefore, as per



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the law laid down by the Honourable Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157( Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017)*, the claimants are entitled to 40% enhancement towards future prospects. Proper multiplier relevant to the age of the deceased is '15'. At the time of accident, four persons were depending on the income of the deceased and hence, 1/4 should be deducted towards his personal expenses. Accordingly, loss of dependency is fixed at Rs.34,02,000/- [18,000 x 1.4 x 12 x 15 x 3/4].

10. The compensation awarded by the Tribunal under the heads Loss of Estate, Funeral Expenses and Loss of Consortium are in accordance with the law laid down by the Hon'ble Supreme Court in *Pranay Sethi case* stated supra and hence, the same are confirmed.

11. Accordingly, the compensation awarded by the Tribunal is revised as under:



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| Sl. No | Description        | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|--------|--------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.     | Loss of Dependency | 22,68,000                       | 34,02,000                         | enhanced                               |
| 2.     | Loss of Estate     | 16,500                          | 16,500                            | confirmed                              |
| 3.     | Funeral Expenses   | 16,500                          | 16,500                            | confirmed                              |
| 4.     | Loss of Consortium | 1,76,000                        | 1,76,000                          | confirmed                              |
| 5.     | Total              | 24,77,000                       | <b>36,11,000</b>                  | enhanced by 11,34,000                  |

12. With the above modifications, this **Civil Miscellaneous Appeal is allowed** and the compensation awarded by the Tribunal at Rs.24,77,000/- is hereby enhanced to **Rs.36,11,000/-** together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. **The appellants are directed to pay additional court fee proportionate to the amount awarded in this appeal.**

13. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a



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period of **four weeks** from the date of receipt of a copy of this judgment. **The findings of the Tribunal with regard to pay and recovery is hereby confirmed.**

14. The Tribunal fixed the share of the **first claimant** as Rs.12,77,000/- and the same is **enhanced to Rs.18,11,000/-**. Like wise the **minors' share is enhanced** from 4,00,000/- each **to Rs.6,00,000/-** each.

15. The first appellant/ first claimant (wife of the deceased) shall be permitted to withdraw her share from the total compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

16. The appellants 2 to 4 being minors, their respective shares are directed to be invested 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/first claimant, being the Natural Guardian of the minor



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children/claimants 2 to 4, is permitted to withdraw the interest accrued thereon, **once in three months** and the same should be used for the welfare of the minor children/claimants 2 to 4.

There shall be no order as to costs.

**24.02.2025**

Index: Yes/No  
Internet: Yes/No  
mst

**To**

1. The Special District Court,  
Motor Accident Claims Tribunal,  
Krishnagiri.



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**S.SOUNTCHAR, J.**

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