IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.01.2025**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.22 of 2025

1.Chinna Venkatesu
2.Gowri
3.Jamuna
4.C.V.Govindarajulu ... Appellants

Vs.

1.P.Thulasimani

2.M/s.The New India Assurance Company Limited,
Rep. by its Divisional Manager, Divisional Office at
Sethu Krishna Trading Centre, No.133/31/A,
(Motor Third Party Cell),
II Floor, Trichy Main Road, Gugai Salem – 636 006,
Branch Office at 14/7 Bagalur Road,
K.G.Complex, Hosur Town and Taluk,
Krishnagiri District. ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, challenging the order dated 09.11.2022 made in M.C.O.P.No.1142 of 2021 on the file of the MACT Tribunal, Special District Court, Krishnagiri.

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mr.J.Chandran [R2]

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JUDGMENT

The claimants are before this Court seeking an enhancement of the award passed by the Motor Accidents Claims Tribunal (Special District Court for Motor Accident Claims Cases), Krishnagiri in M.C.O.P.No.1142 of 2021, dated 09.11.2022.

2. The appellants/claimants are the husband, daughters and son of the deceased Munemma. On 02.08.2021 at about 3.00 p.m., the deceased was travelling along with her husband, who is the 1st claimant, as a pillion rider, in his motorcycle bearing Regn.No.TN-23-BX-1562. The 1st claimant drove the vehicle slowly keeping to the side of the road on Palamaner Krishnagiri NH 42 Main Road, Kuppam town. When he was proceeding on the left side of the road in front of Petrol Bank, a lorry bearing Regn.No.TN-52-M-9998 belonging to the 1st respondent, which was insured with the 2nd respondent, driven by its driver in a rash and negligent manner, with high speed and without sounding horn from V.Kotta side. Due to over speed, the driver of

the lorry is not able to control the vehicle and dashed on the motorcycle, as a result of which, the 1st claimant and the deceased fell down on the road along with motorcycle and sustained bleeding injuries, thereby, the deceased died on the spot. Therefore, the claimants have filed a claim petition claiming compensation for a sum of Rs.40,00,000/- before the Tribunal in M.C.O.P.No.1142 of 2021 for the death of the deceased.

3. Before the Tribunal, the 1st claimant had examined himself as P.W.1 and marked 10 documents viz., Ex.P.1 to Ex.P.10. No witnesses were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal partly allowed the petition and awarded a sum of Rs.7,76,000/- as compensation to the claimants. Not satisfied with the same, the claimants/appellants have preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellants submitted that the monthly income fixed by the Tribunal is on the lower side, which requires to be re-considered by this Court. Further, he submitted that the

compensation awarded under the other heads are on the lower side, which requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellants.

5. Per contra, learned counsel appearing for the second respondent/Insurance Company submitted that, by considering all the oral and documentary evidence, the Tribunal has awarded just and reasonable compensation under various heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellants and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants/claimants is with regard to the quantum of compensation awarded by the Tribunal. To compute the income under the head loss of

income, no document in support of proof of the income of the deceased has been filed. However, it is claimed by the appellants/claimants that, at the time of accident, the deceased was running snacks and tea stall and earned a sum of Rs.20,000/- per month. As per the decision of the Hon'ble Apex Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in ***2014 (1) TANMAC 459,*** notional income of a vegetable vendor is fixed at Rs.6,500/-, where income of the deceased is not proved through documentary evidence. However, the Tribunal had fixed a sum of Rs.9,000/- as notional income, which is on the lower side, since the accident had occurred in the year 2021. Hence, by applying the ratio laid down by the Hon'ble Supreme Court in *Syed Sadiq's* case, fixing a notional income of Rs.16,000/- and no future prospects can be added, since the deceased was aged about 62 years at the time of death, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others*** reported in ***2017 (16) Supreme Court Cases 680,*** the total income per month is quantified at Rs.16,000/-. Deducting 1/4th towards the personal expenses of the deceased, the income of the deceased is arrived at Rs.12,000/- per month and the deceased being aged about 62 years, as evidenced from the records, adopting the multiplier of 7 as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** reported in ***(2009) 6 SCC 121***, the loss of income to the family is arrived at Rs.12,000/- * 12 * 7 = Rs.10,08,000/-, which is worked out as follows :-

Loss of Income	Amount (in Rs.)
Notional income (Per month)	16,000
Less: Personal expenses (1/4th) (Rs.16,000/- x 1/4th) (Per month)	4,000
	12,000
Notional income (per annum) (Rs.12,000/- x 12)	1,44,000
Multiplier	7
Total	**10,08,000**

8. Further, the Tribunal had awarded a sum of Rs.16,500/- towards loss of estate; Rs.16,500/- towards funeral expenses and Rs.1,76,000/- towards loss of consortium. This Court finds that the compensation awarded under the above heads are just and reasonable and the same is confirmed.

9. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

S. No.	Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
1	Loss of dependency	**5,67,000/-**	**10,08,000/- (enhanced)**
2	Loss of estate	16,500/-	16,500/-
3	Funeral expenses	16,500/-	16,500/-
4	Loss of love and affection (Rs.44,000/- x 4)	1,76,000/-	1,76,000/-
	Total	**7,76,000/-**	**12,17,000/-**

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from **Rs.7,76,000/-** to **Rs.12,17,000/-**. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.1142 of 2021 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of eight (8) weeks from the date of receipt of a copy of this judgment. The above modified compensation amount shall be apportioned among the appellants as per the apportionment of the Tribunal. On such

deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellants. The appellants/claimants are directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellants will not entitled to any interest for the delay period. No costs.

20.01.2025

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No
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To

The Motor Accident Claims Tribunal (Special District Court for Motor Accidents Claims Cases), Krishnagiri.

M.DHANDAPANI,J.,

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