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CMA No. 3150 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 3150 of 2024

1. L.Sasikala

W/o. Loganathan, Res. at 1/2,
Paramahamsa Yogananda Street, Bethel
Nagar, Vengaivasal, Selaiyur, Chennai -
073.

2.Minor L. Archana

D/o. Loganathan, Rep. by their mother
and next friend L. Sasikala the 1st
appellant, Res. at 1/2, Paramahamsa
Yogananda Street, Bethel Nagar,
Vengaivasal, Selaiyur, Chennai - 073.

3.Minor L. Abinaya Sri

D/o. Loganathan, Rep. by thier mother
and next friend L. Sasikala the 1st
Appellant, Res. at 1/2, Paramahamsa
Yogananda Street, Bethel Nagar,
Vengaivasal, Selaiyur, Chennai - 073.

4.Minor L. Arjun

S/o. Loganathan, Rep. by thier mother
and next friend L. Sasikala the 1st
Appellant, Res. at 1/2, Paramahamsa



Yogananda Street, Bethel Nagar,
Vengaivasal, Selaiyur, Chennai - 073.

WEB 5. KAMATCHI

W/o. Mani, Res. at 1/2, Paramahamsa
Yogananda Street, Bethel Nagar,
Vengaivasal, Selaiyur, Chennai - 073.

6.D. Mani

S/o. Dhanapal, Res. at 1/2,
Paramahamsa Yogananda Street, Bethel
Nagar, Vengaivasal, Selaiyur, Chennai -
073.

Appellant(s)

Vs

1. V.E. Subramanian
No.59, CTH Road, SM Nagar,
Thirumullaivaoyal, Chennai - 062.

2.The New India Assurance Co. Ltd.
Motor Third Party Claims Office,
No.232, Bombay Mutual Building, 6th
Floor, NSC Bose Road, Chennai-1.

Respondent(s)

CMA No. 3150 of 2024

PRAYER

To allow the present appeal award enhanced compensation in judgment and decree dated 02.09.2024 in MCOP No.2621/2020 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

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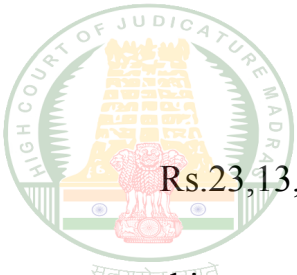
For Appellant(s): Mr.R.Nalliyappan

For Respondent(s): Mrs.R.Sreee Vidhya For R2 R1 -
No Appearance

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to enhance the compensation in judgment and decree dated 02.09.2024 in MCOP No.2621/2020 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai(in short "tribunal").

2. On 01.09.2020 at about 13.00 hours, the victim was riding the motorcycle bearing registration No. TN 20 AP 8274 along the Santhosapuram main road in the North to South direction in front of Vengaivasal Ayyanar Maligai Shop and dashed against the backside of the mini goods van bearing registration No. TN 22 DE 9934 which was suddenly stopped in the middle of the road without indication. Due to the impact the deceased sustained fatal injuries and died on 05.09.2020 while undergoing treatment. Thereafter, the claimants filed the petition before the tribunal claiming compensation. The second respondent herein contested the case by filing counter. After considering the oral and documentary evidence, the tribunal awarded compensation of

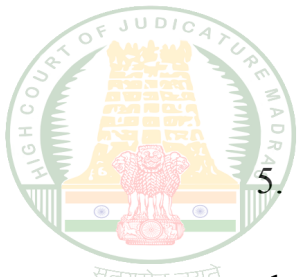


Rs.23,13,500/-. Challenging the quantum of compensation, the claimants filed this appeal.

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3. The learned counsel for the claimants submits that the deceased was a painting contractor, who had earned Rs.30,000/- per month but the tribunal fixed very less amount as notional income. The tribunal has come to the conclusion that accident was happened due to the negligence of the first respondent driver however it has fixed 30% contributory negligence upon the deceased stating that he has not wearing helmet at the time of the accident. But, P.W.2 deposed that deceased was wearing helmet at the time of the accident which was not properly appreciated by the tribunal. Hence, he prays to enhance the compensation.

4. The learned counsel for the respondent submits that as per the post mortem report the deceased has sustained severe head injuries which itself shows that he has not wearing helmet at the time of the accident therefore the tribunal rightly fixed contributory negligence and also he had no driving licence upon the deceased which needs no interference.

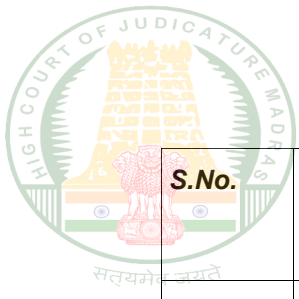


5. Heard the submissions of the learned counsel for the appellants and respondent.

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6. Admittedly, the deceased was not possessed valid driving licence at the time of the accident and in respect of wearing helmet, PW.2 deposed that the deceased was wearing helmet at the time of the accident. Therefore, this Court is inclined to reduce the contributory negligence fixed by the tribunal from 30% to 15%. Further, the deceased was painting contractor and also considering the cost of living at the time of the accident, this Court is inclined to fix Rs.18,000/- as notional income of the deceased. Accordingly, the claimants are entitled to Rs.38,70,720/- $(18,000 + 7200 \times 12 \times 16 - 1/5)$ under the head of loss of dependency. Except above modification the award passed by the tribunal in other heads remain unchanged.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of dependency	Rs.30,24,000/-	Rs.38,70,720/-
2.	Loss of estate	Rs.15,000/-	Rs.15,000/-
3.	Loss of consortium	Rs.2,40,000/-	Rs.2,40,000/-
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-



S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
5.	Transportation charges	Rs.10,000/-	Rs.10,000/-
6.	Medical expenses	Rs.1,000/-	Rs.1,000/-
	Total	Rs.23,13,500/-	Rs.41,57,720/-

7. After deducting 15% towards contributory negligence, the claimants are entitled to Rs. 35,34,962/-. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to 35,34,962/-. The first claimant is entitled to Rs. 10,34,962/-. Fifth and sixth appellants are entitled to Rs.5,00,000/- each . Minor appellants 2 to 4 are entitled to Rs. 5,00,000/- each And their shares ordered to be deposited in the nationalised bank till they attaining majority and they are entitled to withdraw the interest of the said amount every six months. The second respondent is directed to deposit the said amount 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 MCOP No.2621/2020 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai , within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the appellants/claimants are permitted to withdraw the award amount by making



formal application before the Tribunal. In so far as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimant(s).

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7. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

2. The Section Officer, V.R Section, High Court, Madras.

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T.V.THAMILSELVI J.
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