



CMA.No.747 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.747 of 2025

1. Dhanavalli
2. Minor S.Tamilvanan
3. S.Rajesh

Chennaponnu (died)

... Appellants

Vs.

1. K.Jagan
2. V.Muthamil Selvan
3. United India Insurance Co. Ltd.,
Silingi Building, 4th floor,
Motor third party claims Hub,
No.132, Greams Road, Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the award passed in MCOP No.5380 of 2017 dated 06.02.2024 on the file of VI Small Causes Court, Motor Accident Claims Tribunal, Chennai.

For Appellant : Mr.M.S.Umesh

For Respondents : Mr.E.Senthil Kumar for R2



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have filed the present appeal.

2. It is the case of the claimants that the husband of the first claimant and father of the second claimant and son of the third and fourth claimants namely Suresh died in a road accident that had occurred on 18.06.2017. It is the case of the claimants that the deceased was travelling in an auto on that fateful day and when he was nearing Poonjeri Bus Stop, East Coast Road, Mamallapuram, a car registered in the name of the second respondent, purchased by the first respondent and insured with the third respondent, came in the opposite direction in a rash and negligent manner and dashed against the left side of the auto. As a result of accident, his leg was amputated and subsequently died in the hospital. Therefore, the claim petition was filed seeking compensation of Rs.38,00,000/-. Pending claim petition, the mother of the deceased, namely Chennaponnu , 4th claimant died.



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3. The first respondent remained exparte before the Tribunal.

The second respondent filed counter stating that he already sold the vehicle to the first respondent and hence, he was not the owner of the vehicle, at the time of accident. The third respondent/insurance company filed counter and resisted the claim petition by denying the negligence on the part of the car driver. The insurance company also denied the age and income of the deceased.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the car by its driver. The Tribunal quantified the compensation payable to the claimants at Rs.20,40,000/-. Not satisfied with the quantum of compensation, the claimants have come before this court.

5. The first respondent remained exparte before the Tribunal and hence, notice to him is dispensed with.



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6. Heard the learned counsel for the appellants and the learned counsel for the second and third respondent.

7. Both the counsel for the appellant as well as the respondents have not advanced any argument on the questions of negligence as well as liability. Hence, the facts necessary to decide those questions are not considered in this appeal.

8. The learned counsel for the appellant would submit that the deceased was employed as Assistant Cook under the catering contractors and he was earning a sum of Rs.12,000/- per month as salary and a sum of Rs.6,000/- towards daily batta. However, the Tribunal fixed notional income at Rs.10,000/-, which is very much on lower side.

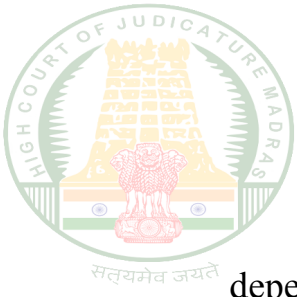
9. The learned counsel for the third respondent / insurance company would submit that the claimants have not produced any acceptable evidence to prove the income of the deceased and hence, an amount of Rs.10,000/- fixed by the Tribunal is reasonable one.



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10. In the claim petition, it was stated by the claimants that the deceased was employed as an Assistant cook in SRP Catering Contractors and he was earning a sum of Rs.12,000/- per month. During the course of evidence, the PW1 deposed that apart from the salary of Rs.12,000/-, the deceased was paid a sum of Rs.200/- per day as daily batta. Therefore, at the relevant point of time, the deceased was earning a sum of Rs.18,000/- per month. However, there was no evidence on the side of the claimants to prove the above said fact. If there is no proof of income, taking into account the year of accident and the cost of living, this court can fix notional income and accordingly, this court proceeds to fix a sum of Rs.15,000/- per month as notional income of the deceased. As per Ex.P5 Aadhaar Card of the deceased, the Tribunal fixed the age of the deceased as 37 years. Therefore, as per the law laid down by the Hon'ble Supreme 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 and the applicable multiplier is '15'. At the time of filing the claim petition, there were 4 persons



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depending on the income of the deceased and pending claim petition only, the fourth claimant, namely mother of the deceased died, leaving behind the claimants 2 and 3 as her legal heirs. Therefore, 1 / 4 shall be deducted towards personal expenses of the deceased. Accordingly, the claimants are entitled to Rs.28,35,000/- (15,000 x 1.40 x 12 x 15 x 3/4) towards loss of dependency.

11. As per the law laid down by the Hon'ble Supreme Court in ***Pranay Sethi Case***, the first claimant is entitled to Rs.40,000/- towards loss of consortium and the second claimant is entitled to Rs.40,000/- towards loss of love and affection and the third claimant is entitled to Rs.40,000/- towards parental consortium. Apart from that, the claimants are also entitled to Rs.15,000/- each towards loss of estate and funeral expenses. Therefore, the compensation awarded under the above said conventional heads are confirmed.

12. 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	18,90,000	28,35,000	enhanced
2.	Loss of parental consortium to first claimant	40,000	40,000	confirmed
3.	Loss of love affection to 2 nd claimant and loss of parental consortium to third claimant	80,000	80,000	confirmed
5.	Loss of estate	15,000	15,000	confirmed
6.	Funeral expenses	15,000	15,000	confirmed
	Total	20,40,000	29,85,000	enhanced by 9,45,000

13. With the above modifications, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.20,40,000/- is hereby enhanced to **Rs.29,85,000/-** together with interest at 7.5% per annum from the date of petition till the date of deposit. *The claimants are directed to pay the applicable court fee for the enhanced compensation now determined.*



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14. The third respondent/insurance company 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 period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit, the claimants shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn in the same proportion, as per the apportionment made by the Tribunal, by making formal application before the Tribunal and subject to the satisfaction of the Tribunal with regard to the attainment of majority by the second claimant.

There shall be no order as to costs.

14.03.2025

Index:Yes/No
Internet:Yes/No
mst

To

1. The VI Judge,
Court of Small Causes, Chennai.



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



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S.SOUNTHAR, J.

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