



CMA.No.176 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

CORAM

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

CMA.No.176 of 2025

1. K.Subramani
 2. Kalpana
- ...Appellants

Vs.

1. K.Arumugam
 2. Shri Ram General Insurance Company Ltd.,
by its Manager, No.10003-E-8, RIICO Industrial area,
Sitapura, Jaipur,
Rajasthan.
- ...Respondents

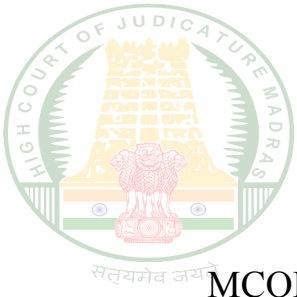
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in MCOP.No.108 of 2012, dated 28.02.2023 on the file of MACT/Principal District Judge at Namakkal.

For Appellants : Mr.C.Thangaraju

For Respondents : Mr.K.A.Prem Kumar for R2

JUDGMENT

Challenging the decree and judgment dated 28.02.2023 made in



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MCOP.No.108 of 2012, on the file of Special District Judge's Court
MACT/Principal District Judge at Namakkal, the claimants have filed the
above appeal.

2. Mr.K.A.Prem Kumar, learned counsel takes notice on behalf of
the 2nd respondent.

3. In view of the judgment being passed, notice to the first
respondent is dispensed with.

4. It is the case of the claimants that, on 30.06.2010 at about 05.30
p.m., when the deceased was riding her bicycle, at that time a Tempo
bearing Regn.No.TN 09 P 2999 driven by its driver belonging to the first
respondent came in a rash and negligent manner and dashed against the
deceased, due to which the deceased sustained grievous injuries and
succumbed to the same. Thereby, the appellants, who are the dependents
of the deceased filed a claim petition in MCOP.No.108 of 2012 claiming
a compensation of Rs.12,00,000/-.



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5. Before the Tribunal, the appellants examined P.W.1 and P.W.2 and marked Exhibits P.1 to P.7 and on the side of the respondents, they examined R.W.1 and R.W.2 and marked Exhibits R.1 to R.6. After trial, the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent's vehicle and awarded Rs.10,29,070/- towards compensation for the death of the deceased to be payable by the second respondent and to thereafter recover the said amount from the first respondent. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellants/claimants have come up with this appeal seeking enhancement of compensation.

6. Learned counsel for the appellants submitted that the above said accident happened solely due to the rash and negligent driving on the part of the driver of the 1st respondent vehicle and the accident is of the year 2010 and at the time of accident, the deceased was aged about 26 years and was earning a sum of Rs.10,000/- per month by doing agriculture and milk vending, however, the tribunal had taken the notional income of the



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deceased as Rs.5,000/-, which is very meagre and the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be interfered with. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

7. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

8. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

9. The factum and manner of the accident is not disputed by the parties and the parties have not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same.



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10. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2010 and at the time of accident, the deceased was aged about 26 years and she was an agriculturist and a milk vendor, however, the Tribunal has fixed the notional monthly income at Rs.5,000/-, which is on the lower side. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459**, and also considering the age of the deceased as also the claimants, fixing a notional income of Rs.10,000/- and adding future prospects at 40%, 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 income per month is quantified at Rs.14,000/- (10,000 + 4,000) and after deducting 1/3rd towards personal expenses, the monthly income of the deceased would be at Rs.9,333/- (Rs.14,000/- – Rs.4,667/-) and as per the Judgment of the Hon'ble Apex Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another* reported in 2009 (2) TN MAC 1 (SC), the right multiplier to be adopted is '17' and hence, the loss of income would be at Rs.19,03,932/-



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(Rs.9,333 x 12 x 17).

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11.The tribunal had awarded a compensation of Rs.16,500/- under the head loss of estate, which is on the higher side and the same is reduced to a sum of Rs.15,000/-. A sum of Rs.44,000/- has been granted under the head “loss of consortium”, which is on the lower side, hence the same is enhanced to a sum of Rs.80,000/-. Accordingly, a sum of Rs.40,000/- is granted to each dependents under the head “loss of consortium”. A sum of Rs.16,500/- has been granted under the head “funeral expenses” which highly excessive. Hence the same is reduced to a sum of Rs.15,000/-.

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

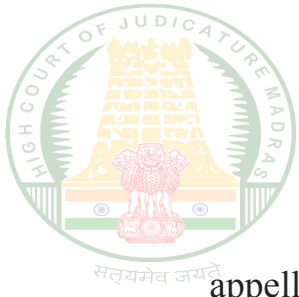
<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of earning	10,29,070/-	19,03,932/-
Loss of estate	16,500/-	15,000/-
Funeral expenses	16,500/-	15,000/-
Loss of consortium	44,000/-	80,000/-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Total	10,29,070/-	20,13,932/-

13. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.108 of 2012 is modified by enhancing the compensation amount from Rs.10,29,070/- to **Rs.20,13,932/-**. The 2nd respondent Insurance company is directed to deposit the said amount to the credit of MCOP.No.108 of 2012 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 four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants/claimants through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. The enhanced compensation awarded by this Court shall be apportioned among the appellants equally. It is made clear that the pay and recovery ordered by the Tribunal is hereby confirmed. It is underscored that the



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appellants are not entitled to any interest for the default period, if any. No costs.

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NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

1. The MACT/Principal District Judge at Namakkal.



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

M.DHANDAPANI, J.

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