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C.M.A.No.3561 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3561 of 2024

1.Arokkiyarnary

2.Arokkiyasamy

... Appellants

Vs.

1.Kanagam

2.National Insurance Company Ltd.,
TP HUB, Divisional Office,
No.110, Jawaharlal Nehru Salai,
Pondicherry.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal by enhancing the award passed by the Tribunal in M.C.O.P.No.259 of 2022 on the file of the III Additional District and Sessions Judge, Cuddalore at Vridhachalam (MACT Court).

For Appellants : Mr.S.Udhayakumar

For Respondents : Mr.S.Senthil Kumar for R2

J U D G M E N T

This appeal has been filed by the appellants/ claimants



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challenging the judgment and decree passed in M.C.O.P.No.259 of 2022 dated 29.08.2023 on the file of the III Additional District and Sessions Judge, Cuddalore at Vriddhachalam (MACT Court).

2.The learned counsel appearing for the appellants submitted that on 25.07.2022 at about 04.15 hours, the deceased Poulraj was riding bicycle towards Mavidanthai Village from Kammapuram. When he reached in front of Bharath Petrol Pump, Kammapuram in Chidambaram Vriddhachalam Main Road, the car bearing Registration No.TN-52-K-1607 belonging to the first respondent came in the opposite direction in a rash and negligent manner and dashed against the bicycle, due to which, the deceased lost his life.

3.The learned counsel appearing for the appellants further submitted that thereafter, the parents of the deceased Poulraj/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.30 Lakhs as compensation. After adjudication, the Tribunal awarded a sum of Rs.11,99,000/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit of the entire amount with costs and directed the second respondent to deposit the compensation.



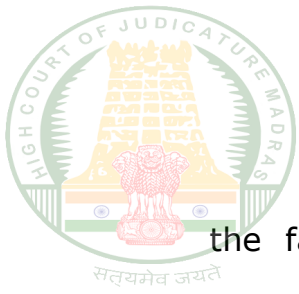
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Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that in order to prove the case the first claimant examined herself as P.W.1 and one Venkatesan was examined as P.W.2 and marked exhibits Ex.P.1 to Ex.P.10, however, the Insurance Company neither examined any witness nor marked any exhibit.

5.The learned counsel appearing for the appellants further submitted that the accident is of the year 2022 and as per the decision of the Hon'ble Apex Court in *Sarla Varma and Ors. v. Delhi Transport Corporation and Anr.* reported in 2009 (2) L.S. 29 (S.C.), a sum of Rs.17,000/- ought to have been fixed as the notional monthly income of the deceased, however, the Tribunal fixed the notional monthly income of the deceased as Rs.9,000/- and awarded a meagre compensation for loss of income and further submitted that the compensation awarded under the other heads also are meagre.

6.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all



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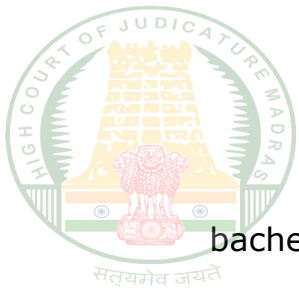
the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

7.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

9.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.11,34,000/- for loss of income, Rs.10,000/- for transportation, Rs.15,000/- for funeral expenses, Rs.40,000/- for loss of consortium and arrived at a total compensation of Rs.11,99,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit of the entire amount.

10.The accident is of the year 2022 and the deceased is a



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bachelor aged 37 years at the time of death. As per the decision of the Hon'ble Apex Court in *Sarla Varma and Ors. v. Delhi Transport Corporation and Anr.* reported in 2009 (2) L.S. 29 (S.C.), a sum of Rs.17,000/- ought to have been fixed as the notional monthly income of the deceased. Hence, this Court fix a sum of Rs.17,000/- as the notional monthly income of the deceased. The Tribunal has rightly awarded 40% of the monthly income for future prospects and has rightly deducted $\frac{1}{2}$ of the amount towards personal expenses and has rightly adopted the correct multiplier 15. Hence, the amount awarded for loss of income works out to Rs.21,42,000/- [Rs.17,000/- X 40% = Rs.6,800/-; Rs.17,000/- + Rs.6,800/- = Rs.23,800/-; Rs.23,800/- X $\frac{1}{2}$ = Rs.11,900/-; Rs.23,800/- - Rs.11,900/- = Rs.11,900/-; Rs.11,900/- X 12 X 15 = Rs.21,42,000/-].

11.The amount awarded under the heads transportation, loss of consortium, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for transportation is enhanced to Rs.15,000/- from Rs.10,000/-, the amount awarded for loss of consortium is enhanced to Rs.80,000/- from Rs.40,000/-. The amount awarded under the head funeral expenses, in the opinion of



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this Court is just and reasonable and the same is confirmed.

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12. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs.11,34,000/-	Rs.21,42,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Transportation	Rs. 10,000/-	Rs. 15,000/-
4.	Loss of consortium	Rs. 40,000/-	Rs. 80,000/-
	Total	Rs.11,99,000/-	Rs.22,52,000/-

13. The claimants are entitled to total compensation of Rs.22,52,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit of the entire amount.

14. The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.259 of 2022 dated 29.08.2023 on the file of the III Additional District and Sessions Judge, Cuddalore at Vridhachalam (MACT Court), is modified to the above extent.

15. The second respondent Insurance Company is directed to



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deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The III Additional District and Sessions Judge, Cuddalore at Vridhachalam (MACT Court), shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

16.The civil miscellaneous appeal is partly allowed. No costs.

07.01.2025

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

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1.The III Additional District and Sessions Judge, Cuddalore at
Vridhachalam (MACT Court).

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M.DHANDAPANI,J.
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