



C.M.A.No.441 of 2024

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C.M.A.No. 441 of 2024

T.V.THAMILSELVI, J.

This matter was taken up for hearing under the caption “For Being Mentioned” today at the instance of the learned counsel for the appellant.

2. The learned counsel for appellant would submit that this Court by Judgment dated 02.07.2025 partly allowed the above Civil Miscellaneous Appeal. However, he would submit that in para 11 (iv) and (v), the 1st respondent being owner cum driver was directed to pay the enhanced compensation instead of directing 2nd respondent insurance company to pay enhanced compensation. Hence, he prayed to amend the same and requested to issue fresh order copy. Accordingly, the matter has been listed today.

3. Heard the contentions of learned counsel for appellant and perused the order.

4. Considering his submissions, Registry is directed to substitute words in para 11 (iv) and (v), page 7 viz., “1st respondent” as **“2nd respondent insurance company”**.



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5. Registry is directed to incorporate above correction in the judgment of this Court in C.M.A.No.441 of 2024 dated 02.07.2025 and issue fresh order copy to the appellant.

04.08.2025

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04.08.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.07.2025

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CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.441 of 2024

1.Saraswathi
2.Bharathi
3.Dilli
4.Manimegalai
Appellants

...

Vs.

1.S.Umapathy

2.United India Insurance Co.Ltd.,
Silingai Building,
No.134, Greams Road,
Chennai-600 006.
Respondents

...

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the order and decree dated 21.11.2003 passed in M.C.O.P.No.6781 of 2017 on the file of the Motor Accident Claims Tribunal cum III Court of Small Causes, Chennai.

For Appellant : Mr.S.Ravi Kumar

For R2 : Dr.C.Paranthaman

For R1 : No appearance



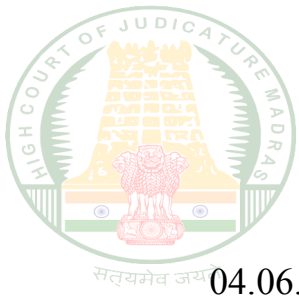
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JUDGMENT

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The appellants have filed this appeal against the award passed in M.C.O.P. No. 6781 of 2017 on the file of the Motor Accident Claims Tribunal cum III Court of Small Causes, Chennai, dated 21.11.2022.

2. The brief facts of the case of the appellants/claimants are as follows: On 04.06.2017 at about 19:30 hours, the deceased, Mohan @ Mohanan, was travelling as a pillion rider on a motorcycle bearing Registration No. TN-20-BF-0021. He was properly wearing a helmet, and the motorcycle was proceeding through Vengathur Junction on Poonamallee High Road, Chennai. At that time, the rider of the motorcycle drove in a rash and negligent manner at a very high speed, without following traffic rules. He drove in a zigzag manner and applied a sudden brake, due to which the deceased was thrown off the motorcycle. As a result, the deceased sustained a head injury and multiple fatal injuries all over his body. He was initially taken to the Government General Hospital, Tiruvallur, and thereafter admitted to Sri Ramachandra Hospital, Porur, Chennai, where he was treated as an inpatient from



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04.06.2017. However, despite treatment, he died on 26.06.2017. A postmortem was conducted at Rajiv Gandhi Government General Hospital, Chennai. The petitioners submit that the driver of the motorcycle bearing Registration No. TN-20-BF-0021 is solely responsible for the accident which led to the death of the deceased.

3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs. 4,60,000/- as compensation, directing the 1st respondent to pay the said amount to the appellants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimants) have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.S.Ravi Kumar, learned counsel appearing for the appellants, and Dr.C.Paranthaman, learned counsel appearing for the 2nd



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respondent.

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6. The learned counsel for the appellants submitted that the deceased was employed as a security guard in a private company and drawing a salary of Rs. 15,000/- per month. However, the Tribunal erroneously considered only salary as only Rs. 6,000/- per month. Furthermore, the deceased underwent inpatient treatment from 13.06.2017 to 27.06.2017. During the period, medical bills amounting to Rs.3,99,309/-, which were marked as Ex.P4 and Ex.P5, were not taken into account while awarding compensation. Hence, the counsel prayed for enhancement of the compensation.

7. On the other hand, the learned counsel appearing for the respondents contended that personal allowances were deducted, and therefore, Tribunal rightly fixed the monthly salary at Rs.6,000/-. He further submitted that the amount awarded under the head of loss of consortium is sustainable and prayed for dismissal of the appeal as being devoid of merits.

8. On considering the submissions of both parties and on



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perusal of the records, it is evident that the deceased was working as a security guard in a private company and was earning Rs. 15,000/- per month. However, considering the cost of living in the year 2017, this Court is inclined to fix the monthly income of the deceased at Rs.8,000/-. The deceased died leaving behind his legal heirs, his wife and three children. Hence, 1/4th of the income is to be deducted towards personal expenses. The deceased was aged 72 years at the time of the accident, and as per the judgment in *Sarla Verma & Others v. Delhi Transport Corporation & Another*, (2009) 6 SCC 121, the appropriate multiplier is 5. As per the medical bills, and upon verification of the package policy, which is also admitted by the respondents counsel, the findings of the Tribunal are modified. Accordingly, the compensation is enhanced as follows:

9. Calculation:

- Notional Income: Rs. 8,000/-
- After 1/4 Deduction: Rs. 8,000 - 2,000 = Rs. 6,000/-

Loss of Dependency: Rs. 6,000 $\times$ 12 $\times$ 5 = Rs. 3,60,000/-



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10. The following table sets out the amounts awarded by the

Tribunal and the enhanced amounts awarded by this Court:

<i>Sl. No</i>	<i>Heads</i>	<i>Amount Awarded by Tribunal</i>	<i>Amount Awarded by High Court</i>
1.	Loss of Dependency	Rs. 2,70,000	Rs. 3,60,000
2.	Loss of Consortium	Rs. 1,60,000	Rs. 1,60,000
3.	Loss of Estate	Rs. 15,000	Rs. 15,000
4.	Funeral Expenses	Rs. 15,000	Rs. 15,000
5.	Medical Bills	Nil	Rs. 3,99,309
	Total	Rs. 4,60,000	Rs. 9,49,309

Thus, the compensation awarded by the Tribunal is enhanced from Rs. 4,60,000/- to Rs. 9,49,309/-, which shall carry interest at the rate of 7.5% per annum.

11. In the result:

i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

ii. The compensation awarded by the Tribunal is enhanced from Rs.4,60,000/- to Rs. 9,49,309/-.

iii. The appellants/claimants are directed to pay the court fee



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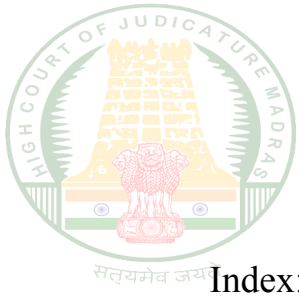
for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after receipt of the court fee.

iv. The 1st respondent is directed to pay the enhanced compensation amount of Rs.9,49,309/- (after deducting any amount already deposited), along with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No. 6781 of 2017 on the file of the Motor Accident Claims Tribunal (No.III, Court of Small Causes) Chennai, within a period of six weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made by the 1st respondent, the appellants/claimants are at liberty to withdraw the same as per the apportionment made by the Tribunal, after following due process of law.

vi. The appellants/claimants shall not be entitled to claim interest for any period of delay, if any, in filing this appeal.

02.07.2025



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Index: Yes/No

Speaking/non Speaking order

Neutral Case citation: yes/no

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To

1. The Motor Accident Claims Tribunal (No.III, Court of Small Causes)
Chennai.

2. United India Insurance Company Limited,
Silingi Building, No.134, Greaves Road,
Chennai-600 006.

3. The Section Officer, V.R. Section, High Court of Madras.



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