



CMA No.2991 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.2991 of 2023

1.E.Parvathi Devi
2.K.Pavithra
3.Kuthammal

... Appellants

Vs.

1.A.Sarath
2.The United India Insurance Company Ltd.,
Motor Third Party Hubb, 4th Floor,
Silinghi Buildings, 134, Greams Road,
Thousand Lights, Chennai-600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the judgment and decree dated 26.07.2023 passed in MACT.O.P.No.7388 of 2018, on the file of the Special Subordinate Court I (Motor Accidents Claims Petitions Small Causes Court), Chennai.

For Appellants : Mr.N.M.Muthurajan

For R2 : Mr.P.Sankaranarayanan

For R1 : Notice not necessary

JUDGMENT



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The appellants have filed this appeal against the award passed in M.C.O.P.No.7388 of 2018, on the file of the Special Subordinate Court I (Motor Accident Claims Petitions), Small Causes Court, Chennai.

2. The brief facts of the case of the appellants/claimants are as follows: On 12.07.2018 at about 19.00 hrs, the deceased was crossing Rajiv Gandhi Salai from West to East, in front of Selva Hotel, Mettukuppam. AT that time, a motorcycle bearing Registration No.TN-14-P-7902 came along Rajiv Gandhi Salai from North to South in a rash and negligent manner and hit the pedestrian. As a result, the deceased fell down, sustained severe injuries, and later died in the hospital. The accident occurred solely due to the rash and negligent riding of the motorcycle rider. The 1st respondent is the owner of the motorcycle bearing Reg.No.TN-14-P-7902, and the 2nd respondent is the insurer of the same.

3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs. 15,80,000/- as compensation, directing the 2nd respondent to pay the



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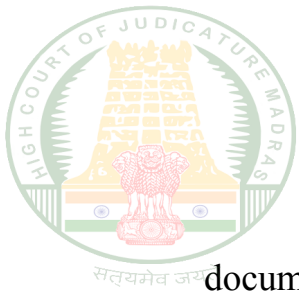
said amount to the appellants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

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. The learned counsel for the appellants submitted that the deceased was a Mason earning Rs.900/- per day. However, the Tribunal erroneously considered only salary of Rs. 11,000/-. He therefore, prayed for enhancement of compensation.

6. On the other hand, the learned counsel appearing for the 2nd respondent contended that the award passed by the Tribunal is based on well-settled principles of law applicable at the time of the order, and therefore, it need not be interfered.

7. The deceased was working as a Mason. However, no



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documentary evidence was adduced by the claimants to substantiate their claim that the deceased was earning a sum of Rs.900/- per day as mentioned in their claim petition. In the circumstances, this Court is of the opinion that fixing the notional monthly income of the deceased at Rs.16,000/- would meet the ends of justice.

8. As per the decision of the Hon'ble Supreme Court in ***National Insurance Co. vs Pranay sethi and others***, reported in **2017 (2) TNMAC 601**, 25% is to be added towards future prospects of the deceased. The deceased died, leaving behind the appellants, who are his legal heirs of the deceased. Hence, 1/3 of the income is to be deducted towards the deceased's personal expenses. The deceased was aged 48 years at the time of the accident, and as per the decision rendered in ***Sarla Verma and others vs. Delhi Transport Corporation and another***, reported in **(2009) 6 SCC 121**, the proper multiplier to be adopted in the instance case is 13. The compensation awarded under the other heads by the Tribunal is confirmed.

9. Calculation



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Notional Income = Rs.16,000/-

25% Future Prospects = 16,000 +4,000 = 20,000/-

After 1/3 deduction = 20,000 – 6,667= Rs.13,333/-

Loss of dependency

= Rs.13,333 x 12m x 13

= Rs.20,79,948/-

10. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:

Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Loss of dependency	14,30,000	20,79,948
2.	Loss of Estate	15,000	15,000
3.	Funeral expenses	15,000	15,000
4.	Loss of Consortium	1,20,000	1,20,000
	Total	Rs.15,80,000	Rs.22,29,948
	Rounded off		Rs.22,30,000

Thus, the compensation awarded by the Tribunal is enhanced from Rs.15,80,000/- to Rs.22,30,000/-, 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



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no order as to costs.

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ii. The compensation awarded by the Tribunal is enhanced from Rs.15,80,000/- to Rs.22,30,000/-.

iii. The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after the receipt of the Court fee.

iv. The 2nd respondent, the United India Insurance Company Ltd., Chennai, is directed to deposit the enhanced compensation amount, i.e., Rs.22,30,000/- (after deducting the amount already deposited), together 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 MACT.O.P.No.7388 of 2018, on the file of the Special Subordinate Court I (Motor Accidents Claims Petitions Small Causes Court), Chennai, within a period of eight weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made by the 2nd 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 the period of delay, if any, in filing this appeal.



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Index: Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no
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To

- 1.The Special Subordinate Court I
(Motor Accidents Claims Petitions Small Causes Court), Chennai.
- 2.The United India Insurance Company Ltd.,
Motor Third Party Hubb, 4th Floor,
Silinghi Buildings, 134, Greams Road,
Thousand Lights, Chennai-600 006.
- 3.The Section Officer, V.R. Section,
High Court of Madras.

T.V.THAMILSELVI, J.

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