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CMA.No.417 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.417 of 2025

1. Ravi
2. Gowri

... Appellants

Vs.

- 1.The Principal, Idhaya College of Arts and Science for Women,
Nariyandhal Village, Pudhupalayam Post,
Chengam Taluk, Tiruvannamalai.

2. The Manager,
Cholamandalam MS General Insurance Company Limited,
No.2, Dare House, 2nd floor,
N.S.C. Bose Road, Chennai-1.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 as against the judgment and decree dated 23.02.2024 passed in MACTOP No.791 of 2018 by the Special Sub Judge, Motor Accident Claims Tribunal, Tiruvannamalai.

For appellants : Mr.F.Terry Chella Raja

For Respondents : Mr.R.Sreevidhya for second respondent



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JUDGMENT

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Aggrieved by the quantum of compensation awarded by the Tribunal, the parents of the deceased/claimants have come before this court by filing the present appeal.

2. The first respondent remained absent before the Tribunal, hence, notice to him is dispensed with.

3. Both the counsel for the appellants and the second respondent have not advanced any arguments on the question of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

4. It is not in dispute that the daughter of the claimants, aged 18 years, First Year student in B.Sc. Maths died in a road accident that had taken place on 28.09.2018. The claimants filed a claim petition before Tribunal, seeking compensation of Rs.50,00,000/-. Based on the available records, the Tribunal awarded a sum of Rs.15,96,000/- as compensation. Not satisfied with the quantum of compensation, the claimants have come before this court by filing the present appeal.



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5. The learned counsel for the appellants would contend that the deceased was a bright B.Sc. Maths First Year student and she had a very bright future and without taking into consideration the evidence of Principal of College, who was examined as PW3, the Tribunal fixed the notional income of the deceased at Rs.10,000/- per month and the same requires enhancement.

6. The learned counsel for the appellants further submits that the Tribunal relied on a decision of the *Hon'ble Supreme Court in Syed Sadia Vs. United India Insurance Company reported in 2014 (1) TNMAC 459* for fixing the monthly income of the deceased at Rs.10,000/- per month. But, the said case was relating to the vegetable vendor, whereas, in the case on hand, the deceased was a bright B.Sc. Maths student and the prospects of her earning amount would have been more in future. However, the Tribunal without appreciating the above facts, has fixed the meager amount of Rs.10,000/- per month as notional income of the deceased.



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7. The learned counsel for the second respondent/ insurance company would submit that the claimants have not produced any document to show that the deceased was a bright student and the prospects of her earning more amount in future is not proved. Therefore, in the absence of any document to show that the deceased will get a good job, the Tribunal was justified in fixing notional income at Rs.10,000/- per month.

8. In order to prove that the deceased was undergoing B.Sc Maths course, the claimants examined the Principal of Idhaya College of Arts and Science as PW3. A perusal of the evidence of PW3 would indicate that the deceased was undergoing first year B.Sc Maths course in her college and after finishing the course, there was every possibility for the deceased getting a good job with reasonable salary. The accident had occurred in the year 2018. Even if there is no evidence to fix notional income of the deceased, by applying the law laid down by a ***Division Bench of this Court in Andal and others Vs. Avinav Kannan and others dated 09.10.2018 reported in Manu/TN/6368/2018***, we can fix the notional income of the deceased



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at Rs.14,100/- per month. Therefore, following the law laid down by the Division Bench of this court in ***Andal case*** cited supra, this court fixes the income of the deceased at Rs.14,100/- per month.

9. As per the law laid down by the ***Honourable Supreme Court 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)***, 40% of income should be enhanced towards future prospects. Therefore, the monthly income of the deceased is fixed at Rs.19,740/- (14,100 +5640), which includes 40% future prospects. At the time of accident, the appellant was aged 18 years, Hence, proper multiplier to be adopted is 18. Since the deceased was spinster, 50% should be deducted towards her personal expenses. This Court is conscious of the fact that deceased would get employment only after finishing college and parents have to support her for two more years. It is a matter of common knowledge that only bright students will get admitted to B.Sc (Maths) course and after finishing the course, there is every possibility of deceased getting placed in a job getting more salary. In view of the fact that the parents/claimants have to support the deceased for two more years to



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continue her studies, this court feels it would be appropriate to deduct a further sum of Rs.1,00,000/- towards educational expenses and other maintenance of deceased for two years period of study. Accordingly, a sum of Rs.20,31,920/- $(19,740 \times 12 \times 18 \times 50/100 = 21,31,920 - 1,00,000 = 20,31,920)$ is fixed towards loss of dependency.

10. The Tribunal granted 10% enhancement under the heads loss of consortium, loss of estate and funeral expenses, as per the law laid in the **Pranay Sethi case**, by taking into consideration the date of Award. But, 10% enhancement, once in three years, shall be awarded only to the cases, where the accident had taken place after three years from the date of decision in **Pranay Sethi Case (i.e. 31.10.2017)**. In the case on hand, the accident had taken place in the year 2018, well within three years from 31.10.2017. Therefore, the Tribunal was not justified in granting 10% enhancement on the above said conventional heads and accordingly, the claimants are entitled to Rs.80,000/- (Rs.40,000/- each) towards filial consortium and a sum of Rs.15,000/- each towards Loss of Estate and Funeral expenses.



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11. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	15,12,000	20,31,920	enhanced
2.	Loss of consortium to claimants 1 and 2	48,000	80,000	enhanced
3.	Loss of Estate	18,000	15,000	reduced
4.	Funeral Expenses	18,000	15,000	reduced
5.	Total	15,96,000	21,41,920	enhanced by 5,45,920

12. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.15,96,000/- is hereby enhanced to **Rs.21,41,920/-** together with interest at 7.5% per annum (**excluding the delay period of 151 days**) from the date of petition to till the date of deposit.



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13. The **second respondent** 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 appellants/claimants shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn by making formal application before the Tribunal. No costs.

17.02.2025

Index:Yes/No
Internet:Yes/No
mst

To

1. The Special Sub Judge,
Motor Accident Claims Tribunal,
Thiruvannamalai.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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