



C.M.A.No.25 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.01.2025**

CORAM:

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

C.M.A.No.25 of 2025

1.Lakshmi

2.Chokkar @ Chokkalingam

... Appellants

Vs.

1.Sri Vijaya Bhaskar

2.The Claim Manager,

Reliance General Insurance Company Limited,

Reliance House,

Situated at No.6, Haddows Road,

4th Floor, (Opposite to Sashstri Bhavan),

Chennai – 600 034.

(Policy Valid from 23.03.2018 to 22.03.2019)

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 17.10.2023 made in M.A.C.T.O.P.No.1254 of 2022 in the Court of Motor Accident Claim Tribunal Judge/Additional District Judge, Tiruvannamalai.

For Appellants : M/s.M.Malar

For Respondents : Mr.P.Suresh Srinivasan [R2]



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JUDGMENT

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The claimants are before this Court seeking an enhancement of the award passed by the Motor Accident Claim Tribunal Judge/Additional District Judge, Tiruvannamalai, in M.C.O.P.No.1254 of 2022.

2. The appellants are the parents of the deceased minor Praveena. On 10.12.2019 at about 09.00 a.m., the deceased was standing in the extreme left side of the road, in soil path, opposite to petitioner's house at Nadazhagananthal puthur village in Tiruvannamalai to Vettavalam Road, at that time, the rider of the Bajaj Discover two wheeler bearing Regn.No.TN-07-AS-2813, belonging to the 1st respondent, which was insured with the 2nd respondent, in a rash and negligent manner, without observing any rules of the road, in high speed lost his control and dashed against the deceased. Due to the said accident, the deceased sustained fatal injuries and was admitted in the Government Medical college and Hospital, Tiruvannamalai. But, unfortunately, she died on the way to the hospital. Therefore, the claimants have filed a claim petition claiming a sum of Rs.50,00,000/- as compensation before the Tribunal in M.C.O.P.No.1254 of 2022.



3. Before the Tribunal, the 2nd claimant had examined herself as P.W.1 and marked 5 documents viz., Ex.P.1 to Ex.P.5. No witnesses were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal had partly allowed the petition and awarded a sum of Rs.3,75,000/- as compensation to the claimants. Not satisfied with the same, the claimants/appellants have preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellants submitted that the accident had happened in the year 2019 and at that time, the minor deceased was aged about 6 years. However, the Tribunal had fixed the notional income of the minor deceased at Rs.15,000/- per annum, which is on the lower side and the same requires to be re-considered by this Court. Further, she submitted that the compensation awarded under the other heads are on the lower side, which requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellants.

5. Per contra, learned counsel appearing for the second respondent/Insurance Company submitted that, by considering all the oral



and documentary evidence, the Tribunal has awarded just and reasonable compensation under various heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellants and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants/claimants is with regard to the quantum of compensation awarded by the Tribunal. The Tribunal, relying on the judgment of the Apex Court reported in **2014(1) SCC 244** in the case of **Kishan Gopal and Anr. vs. Lala & Ors.**, had fixed the notional income of the deceased at Rs.15,000/- per annum. In the aforesaid case, the accident had taken place in the year 1992 and the age of the deceased minor is 10 years. However, in the instant case, the accident is of the year 2019 and hence, it would be appropriate to fix a sum of Rs.60,000/- as notional income per annum. Therefore, the notional income of the deceased minor is fixed at Rs.60,000/- per annum and



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accordingly, the compensation awarded under the head Loss of Dependency is enhanced to a sum of Rs.9,00,000/- (Rs.60,000/- x 15).

8. Further, the Tribunal had awarded a sum of Rs.75,000/- towards non-pecuniary damages and Rs.75,000/- towards future prospects. This Court finds that no compensation can be awarded under the said heads as the said heads are not conventional head, which attract any compensation. Therefore, the compensation awarded under the said heads are set aside. Since no compensation has been awarded under the heads loss of love and affection, funeral expenses and loss of estate, a sum of Rs.80,000/-, Rs.15,000/- and Rs.15,000/- respectively is granted under the said heads.

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

S. No.	Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
1	Loss of dependency	2,25,000/-	9,00,000/- (enhanced)
2	Non-pecuniary Damages	75,000/-	---
3	Future prospects	75,000/-	---



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S. No.	Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
4	Loss of love and affection (Rs.40,000/- x 2)	---	80,000/- (granted)
5	Funeral Expenses	---	15,000/- (granted)
6	Loss of Estate	---	15,000/- (granted)
	Total	3,75,000/-	10,10,000/-

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from **Rs.3,75,000/-** to **Rs.10,10,000/-**. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.1254 of 2022 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 eight (8) weeks from the date of receipt of a copy of this judgment. The above modified compensation amount shall be equally apportioned among the appellants. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants through RTGS within a period of two (2) weeks thereafter upon production



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of proof with regard to payment of Court fee on the enhanced compensation by the appellants. The appellants/claimants are directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellants/claimants are not entitled to any interest for the delay period. No costs.

20.01.2025

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No
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To

The Motor Accident Claim Tribunal Judge/ Additional District Judge,
Tiruvannamalai.



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M.DHANDAPANI,J.,

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