



CMA.No.927 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.927 of 2025

1.Vimala
2. Minor Leesanth
3.Minor Ganapathi Ram
(Minors are represented by N.F.Mother Vimala) ... appellants

Vs.

1. C.Padma
2. The Branch Manager
The Oriental Insurance Company Limited
No.161-C, First Floor, KRC Complex,
Chennai Salai, Krishnagiri-635 001.
3.Deivam
4.Kanaka Rani ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to enhance the compensation amount made in fair and decretal order dated 22.07.2019 made in MCOP No.870 of 2017 on the file of the MACT Tribunal, Principal District Court, Krishnagiri by allowing this CMA.

For appellants : MrS.P.Yuaraj

For Respondents : Mr.R.Rathna Thara for R2
Mr.C.Mariappan for R3 & R4
R1-Notice dispensed with.



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the claimants have come before this Court by way of this appeal.

2. It is not in dispute that the husband of the first claimant, the father of the minor claimants 2 and 3 and son of the respondents 3 and 4 namely Vetriselvan died in a road accident that had occurred on 22.12.2016. According to the claimants, the deceased was driving his TVS XL Super two-wheeler from Mathur to Pochampalli. When he came near Genginaikampatti Mariyamman Koil, the car belonged to the first respondent insured with the second respondent came in the opposite direction in a rash and negligent manner and dashed against the vehicle of the deceased. As a result of the accident, he died on the spot and hence, the claim petition was filed seeking compensation of Rs. 35,00,000/-.

3. The first respondent remained *ex-parte* before the Tribunal and the claim petition was contested by the second respondent on the



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ground that the deceased came in the wrong direction and caused the accident.

4. The claim petition was also opposed by the 3rd and 4th respondent, the parents of the deceased on the ground that at the relevant point of time, the 1st claimant did not live with the deceased.

5. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the car belonged to the 1st respondent and insured with the 2nd respondent. The compensation payable to the claimants 1 to 3 and respondents 4 and 5 was fixed at Rs.14,58,800/-. Not satisfied with the quantum of compensation, the claimants have come before this Court by way of this appeal.

6. The learned counsel for the appellant as well as the learned counsel for the 2nd respondent/ Insurance Company and the counsel for the respondents 3 and 4 have not advanced any arguments on the questions of negligence as well as liability. Hence, the facts necessary to decide those questions are not discussed in this appeal.



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7. The learned counsel for the appellants submitted that the notional income of Rs.7,500/- fixed by the Tribunal is very much on lower side and hence, the same requires enhancement. He further submitted that the deceased was aged about 34 years at the time of accident and the Tribunal committed an error in granting only 25% enhancement towards future prospects.

8. The learned counsel for the Second Respondent/ Insurance Company submitted that the claimants have not produced any documentary evidence to prove the income of the deceased. Hence, the Tribunal was justified in fixing Rs.7,500/- as notional income.

9. In the claim petition, it was stated by the claimants that the deceased was engaged in flower business and was earning a sum of Rs.25,000/- per month. However, in order to prove the avocation and income, no documents have been filed. In these circumstances, taking into consideration the date of accident and the prevailing cost of living, this Court is inclined to fix notional income at Rs.15,000 per month.



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10. It is seen from Ex.P2, post-mortem certificate, the deceased was aged about 34 years at the time of accident. Therefore, the claimants are entitled to 40% enhancement towards future prospects as per the law settled in *Pranay Sethi* case. The applicable multiplier is 16. Therefore, the loss of dependency would be Rs.30,24,000/- which is calculated as follows:-

$$15,000 \times 1.4 \times 12 \times 16 \times 3 / 4 = \text{Rs.30,24,000/-}$$

11. The 1st claimant is entitled to Rs.40,000/- towards loss of consortium (wife). The minors claimants 2 and 3 are entitled to Rs.40,000/- each [Rs.80,000/-] towards loss of love and affection. The respondents 3 and 4 are entitled to Rs.40,000/- each [Rs.80,000/-] towards filial consortium. The claimants are entitled to Rs.15,000/- each under the heads loss of estate and funeral expenses.

12. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:-



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	13,48,800/-	30,24,000/-	Enhanced
2.	Loss of Estate	Nil	15,000/-	Granted
3.	Funeral Expenses	15,000/-	15,000/-	Confirmed
4.	Loss of Consortium (1 st claimant/wife)	30,000/-	40,000/-	Enhanced
5	Loss of love and affection (claimants 2 & 3 and respondents 3 & 4) converted as loss of love and affection (claimants 2 & 3) and loss of filial consortium(3 rd & 4 th respondents)	50,000/-	1,60,000/- (40,000/- x 4)	Enhanced
6	Transportation expenses	15,000/-	Nil	Set aside
	Total	14,58,800/-	32,54,000/-	Enhanced by Rs.17,95,200/-

13. With the above modifications, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at



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that the appellants/claimants and respondents 3 and 4 are not entitled to claim any interest for the delay period of 1851 days as per the order passed in CMP.No.2703 of 2025 in respect of the enhanced sum. The appellants and respondents 3 and 4 are entitled to interest at the rate of 7.5% per annum (excluding the delay period of 1851 days) from the date of filing of the claim petition till the date of realization. The second respondent /Insurance company is directed to deposit the enhanced award amount before the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment.

14. As far as apportionment is concerned, the 1st claimant/wife of the deceased is entitled to Rs.14,74,000/- The minor claimants 2 and 3 are entitled to Rs.5,00,000/- each. The father of the deceased/3rd respondent is entitled to Rs.3,40,000/-.The mother of the deceased/4th respondent is entitled to Rs.4,40,000/-.

15. The 2nd and 3rd appellants/ 2nd and 3rd claimants being



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minors, their share of award amount is directed to be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which shall be renewed periodically until they attain majority and the 1st appellant/1st claimant, being the Natural Guardian of the minors 2nd and 3rd claimants, is permitted to withdraw the interest accrued thereon **once in three months** and the same shall be used for the welfare of the minor 2nd and 3rd claimants. The 1st appellant and 3rd and 4th respondents are entitled to withdraw their share of compensation amount, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The appellants are directed to pay the applicable additional court fee on the enhanced sum. No costs.

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Index: Yes/No
Internet: Yes/No
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WEB COPY **To**

1. Motor Accidents Claims Tribunal
Principal District Court, Krishnagiri

2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTCHAR, J.

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