



C.M.A.No.165 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.165 of 2025

1.Krishnammal
2.Rasathi
3.Madesh
4.Venkatesh
5.Manigandan

... Appellants

Vs.

1.V.Murugesan

2.Royal Sundaram General Insurance Company Ltd.,
Represented by its Branch Manager
No.186/5, Royal Towers, 3rd Floor,
New Bus Stand Road,
Meyyanur, Swaminathapuram,
Salem 636 004.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal by enhancing the award passed by the Tribunal in M.C.O.P.No.04 of 2019 on the file of Subordinate Judge, Palacode (MACT Court) dated 16.08.2023.

For Appellants : Mr.S.Udhayakumar
For Respondents : R1 – NDW order dt.3/1/25
Mr.G.Vasudevan for R2



C.M.A.No.165 of 2025

J U D G M E N T

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This appeal has been filed by the appellants/ claimants challenging the judgment and decree dated 16.08.2023 made in M.C.O.P.No.4 of 2019 on the file of the Subordinate Judge, Palacode (Motor Accident Claims Tribunal).

2.The learned counsel appearing for the appellants submitted that on 22.09.2018 at about 02.30 p.m., when the deceased was walking in front of Arunachalam Hotel located at Jakkasamuthiram Kottu Road in Rayakottai to Palacode Road, a Tipper lorry bearing Registration No.TN-70-P-2053 belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed behind the deceased, due to which, the deceased died on the spot.

3.The learned counsel appearing for the appellants further submitted that thereafter, the legal heirs of the deceased Perumal/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.15 Lakhs as compensation. After adjudication, the Tribunal awarded a sum of Rs.3,62,500/- as compensation along with interest at the rate of 7.5% per annum from



C.M.A.No.165 of 2025

the date of filing of the claim petition till the realization with costs.

Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that the deceased was a stone cutter and was earning a sum of Rs.15,000/- per month, however, the Tribunal fixed the notional monthly income of the deceased as Rs.6,500/- and awarded a meagre compensation for loss of dependency and further submitted that the compensation awarded under the other heads also are meagre.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

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



C.M.A.No.165 of 2025

WEB COPY

7.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.2,92,500/- for loss of dependency, Rs.40,000/- for loss of consortium, Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and arrived at a total compensation of Rs.3,62,500/- with interest at the rate of 7.5% p.a. from the date of filing of the claim petition till the realization.

9.The accident is of the year 2018. The deceased was 68 years at the time of accident and it is contended that the deceased was a stone cutting labourer at the time of accident. Hence, even in the absence of any income proof, for the relevant period a sum of Rs.14,000/- ought to have been fixed as the notional monthly income of the deceased. Hence, this Court fix a sum of Rs.14,000/- as the notional monthly income of the deceased. The Tribunal has rightly deducted 1/4 of the amount towards personal expenses and has



C.M.A.No.165 of 2025

rightly adopted the multiplier 5. Hence, the amount awarded for loss of dependency works out to Rs.6,30,000/- [Rs.14,000/- X $\frac{1}{4}$ = Rs.3,500/-; Rs.14,000/- - Rs.3,500/- = Rs.10,500/-; Rs.10,500/- X 12×5 = Rs.6,30,000/-].

10.The amount awarded under the head loss of consortium, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for loss of consortium is enhanced to Rs.2,00,000/- from Rs.40,000/-. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

11.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependency	Rs.2,92,500/-	Rs.6,30,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
4.	Loss of love and affection	Rs. 40,000/-	Rs.2,00,000/-
	Total	Rs.3,62,500/-	Rs.8,60,000/-



C.M.A.No.165 of 2025

WEB COPY

12.The claimants are entitled to total compensation of Rs.8,60,000/- along with interest at the rate of 7.5% p.a. from the date of filing of the claim petition till the realization.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 16.08.2023 made in M.C.O.P.No.4 of 2019 on the file of the Subordinate Judge, Palacode (Motor Accident Claims Tribunal), is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellants/ claimants are



C.M.A.No.165 of 2025

directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Subordinate Judge, Palacode (Motor Accident Claims Tribunal), shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

15.The civil miscellaneous appeal is partly allowed. No costs.

27.01.2025

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Subordinate Judge, Palacode
(Motor Accident Claims Tribunal).



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C.M.A.No.165 of 2025

M.DHANDAPANI,J.
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C.M.A.No.165 of 2025

27.01.2025



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C.M.A.No.165 of 2025