



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-08-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2191 of 2025

1. Kavitha

2. Gundumani

Appellants

Vs

1. D.Asairajan

2.The Reliance General Insurance CO Ltd

Motor III Party Claims Office, Reliance

Tower Legal Section, No. 6, Haddows Road,

Chennai 6.

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to set aside the award passed by the MACT, Chief Judge, Small Causes Court, Chennai in MCOP.No.2622 of 2021, dated 18-01-2024.

For Appellant(s): Mr.K.Sivakumar

For Respondent(s): Mr. S. Gopi For R1

Mr. P. Suresh Srinivasan For R2



JUDGMENT

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Challenging the impugned award passed by the tribunal in MCOP.No.2622 of 2021, the appellants/petitioners have preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The appellants are mother and father of deceased Suresh. The case of appellants is that on 05.06.2021 at about 14.00 hours, when the victim was riding his two wheeler bearing Regn. No. TN-19 V-3615 from Irumpuli to Gangapuram Road, near Irumpuli Kolikalangkarambu land, a Ashok Leyland Dost bearing Regn. No. TN-97-Y-0088 came from opposite direction driven in a rash and negligent manner dashed the deceased two wheeler and caused an accident. Due to which, the deceased sustained head injury, for which he underwent treatment in the hospital, but he died inspite of treatment. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.49,00,000/-.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.22,62,000/- under various heads as follows:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	21,42,000
2.	Loss of estate	15,000
3.	Loss of consortium	80,000
4.	Funeral expenses	15,000
5.	Transport charges	10,000
	Total compensation awarded (by adding Sl. Nos. 1 to 5)	22,62,000

4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The learned counsel for appellants would argue that the accident was happened in the year 2021 and he was a painter, thereby he had earned a sum of Rs.1000/- per day, but without considering the same as well as without considering cost of living at that time, the tribunal had fixed the notional income as Rs.15000/-. He would also submit that as per the post-mortem certificate, it reveals that his age is 25 years and as per the death certificate, it is certified that his age is 26 years, but his age is to be taken as 25 years. Hence, they prayed for enhancement of compensation and also prayed to arrive his age as 25 years.



6. The learned counsel for 2nd respondent raised objections stating that the deceased was aged about 25 years and there is no proof produced on the side of appellants for the income derived by him as a painter around Rs.30,000/- per month. He would also raised strong objections stating that as per the death certificate, it reveals the fact that his age is 25 years. Hence, the Tribunal had rightly fixed the notional income as Rs.15,000/- and also arrived his age as 26 years, which needs no interference.

7. Heard rival submissions of both learned counsel for appellants and 2nd respondent and perused the materials available on record.

8. On seeing the facts, it reveals that the accident was happened in the year 2021 and the deceased was a painter and even per day his income is to be considered as a sum of Rs.600/-, thereby he would have earned Rs.18,000/- per month. Therefore, this Court is inclined to enhance the notional monthly income of the deceased Suresh from Rs.15000/- to Rs.18,000/-. Furthermore, on perusal of award and as per death certificate of deceased, his age was arrived as 26 years, however, on perusal of post-mortem certificate, his age was shown as 25 years. Considering that, this court is inclined to arrive his age as 25 years. Accordingly, as per ratio laid down in the authority reported on **2009 (2) TNMAC 1 SC in Smt. Sarala Verma and others vs. Delhi Transport Corporation and another**, the multiplier is to be arrived at 18. The



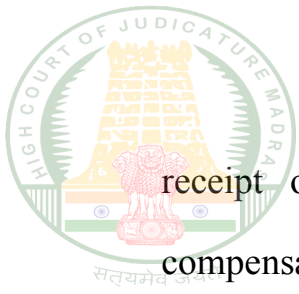
compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

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9. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	For loss of income Rs.18,000/- (add 40% future prospects) = 18000 + 7200 = 25200 25200 x 12 x 18 (multiplier) = 54,43,200 – 1/2 (27,21,600) = 27,21,600	21,42,000	27,21,600	enhanced
2.	Loss of estate	15,000	15,000	confirmed
3.	Loss of consortium	80,000	80,000	confirmed
4.	Funeral expenses	15,000	15,000	confirmed
5.	Transport charges	10,000	10,000	confirmed
	Total	22,62,000	28,41,600	enhanced

10. Accordingly, the compensation awarded by the tribunal at Rs.22,62,000/- is enhanced to Rs.28,41,600/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of



receipt of copy of this judgment. On such deposit of the enhanced compensation amount now determined by this Court, the appellants 1 and 2 are entitled to share the amount proportionately as ordered by the Tribunal and they are permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

11. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

12-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

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



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T.V.THAMILSELVI J.

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