



CMA.No.3474 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.01.2025

CORAM

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

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1. K.Sarojini
 2. K.Sujan (Minor)
Rep. by his mother and natural guardian K.Sarojini
Aged about 11 years,
S/o.(Late) K.Kumaran
 3. K.Amsaveni
- ...Appellants

Vs.

1. S.Ranjith Kumar
 2. The New India Assurance Company Limited,
Motor third party claims hub,
Bombay mutual building, 6th floor,
No.223, N.S.C.Bose Road,
Chennai – 600 001.
- ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to enhance the compensation awarded in decree and judgment dated 09.08.2024 made in M.C.O.P.No.3053 of 2023, on the file of Motor Accident Claims Tribunal, (In the V Court of Small Causes, Chennai).

For Appellants : Mr.K.Balaji

For Respondents : Mr.J.Chandran for R2

JUDGMENT



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Challenging the decree and judgment dated 09.08.2024 made in M.C.O.P.No.3053 of 2023, on the file of Motor Accident Claims Tribunal, (In the V Court of Small Causes, Chennai), the claimants have filed the above appeal.

2. Mr.J.Chandran, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel for the appellant and the second respondent, this appeal is taken up for final disposal at the admission stage itself.

3. Since the first respondent remained ex-parte before the Tribunal, notice to the first respondent is dispensed with.

4. It is the case of the claimants that, on 15.05.2023 at about 9.00 hours, when the deceased namely K.Kumaran was riding his two-wheeler bearing Regn.No.TN 21 AE 9056, at that time, a two wheeler bearing Reg.No.TN-06-W-9745 driven by its driver in a rash and negligent manner came and dashed against the two wheeler in which the deceased was travelling, due to which the deceased sustained grievous injuries and succumbed to the same. Thereby, the appellants, who are the dependents of the deceased filed a claim petition in MCOP.No.3053 of 2023 claiming a compensation of Rs.49,00,000/-.

5. Before the Tribunal, the appellants examined P.W.1 and P.W.2 and marked Exhibits P.1 to P.13 and on the side of the respondents, no documents



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were marked and no witnesses were examined and Court document was marked as Ex.X1. After trial, the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the rash and negligent driving of the 1st respondent and awarded Rs.22,50,000/- towards compensation for the death of the deceased. Thereby, the appellants who are the wife, son and mother of the deceased respectively have come up with this appeal seeking enhancement of compensation.

6. Learned counsel for the appellants submitted that the above said accident happened solely due to the rash and negligent driving of the 1st respondent and the accident is of the year 2017 and at the time of accident, the deceased was aged about 42 years and was working as a Supervisor in M/s.Parry water and was earning a sum of Rs.18,000/- per month, however, the tribunal had taken the notional income of the deceased as Rs.15,000/-, which is very meagre and the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be interfered with. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

7. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the



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relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

8. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

9. The factum and manner of the accident is not disputed by the parties and the parties have not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same.

10. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2023 and at the time of accident, the deceased was aged about 42 years and he was working as a Supervisor in M/s.Parry Water, however, the Tribunal has fixed the notional monthly income at Rs.15,000/-, which is on the lower side. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459**, and also considering the age of the deceased as also the claimants, fixing a notional income of Rs.19,000/- and adding future prospects at 25%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in **2017 (16) Supreme Court Cases 680**, the income per month is quantified at Rs.23,750/- (19,000 +4750) and after deducting 1/3rd towards



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personal expenses, the monthly income of the deceased would be at Rs.15,834/-

(Rs.23,750 – 1/3rd of Rs.23,750) and as per the Judgment of the Hon'ble Apex Court in Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 (2) TN MAC 1 (SC), the right multiplier to be adopted is '18' and hence, the loss of dependency would be at Rs.26,60,112/- (Rs.15,834 x 12 x 14).

11.The tribunal had awarded a compensation of Rs.1,20,000/- under the head loss of consortium, which is on the lower side and the same is enhanced to a sum of Rs.1,32,000/-. A sum of Rs.15,000/- each have been awarded under the heads Loss of Estate and Funeral expenses respectively which is on the lower side and the same is enhanced to a sum of Rs.16,500/- under the said heads respectively. Insofar as the other heads are concerned, they are just and reasonable and the same need not be interfered with.

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

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	21,00,000/-	26,60,112/-
Loss of consortium	1,20,000/-	1,32,000/-
Loss of Estate	15,000/-	16,500/-
Funeral expenses	15,000/-	16,500/-
Medical expenses	-	-
Total	22,50,000/-	28,25,112/-



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13. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.3053 of 2023 is modified by enhancing the compensation amount from Rs.22,50,000/- to **Rs.28,25,112/-**. The 2nd respondent Insurance company is directed to deposit the said amount to the credit of MCOP.No.3053 of 2023 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 four (4) weeks from the date of receipt of a copy of this judgment. Out of the compensation amount, the first and second appellants are entitled a sum of Rs.11,30,000/- each and the third appellant is entitled to a sum of Rs.5,65,112/- in the ratio of 40:40:20 respectively. On such deposit being made by the second respondent, the appellants 1 and 3 are entitled to withdraw their share of compensation by filing appropriate application before the Tribunal and the share of compensation to the second appellant shall be deposited in an interest bearing fixed deposit initially for a period of three years by the Tribunal, which shall be renewed periodically till they attain majority. The interest from out of the fixed deposit shall be paid to the first appellant every quarter for it to be used for the welfare of the minor appellant. After attaining majority, the minor appellant is permitted to withdraw



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his share by filing appropriate application and establishing his majority before
the Tribunal. No costs.

02.01.2025

rap

NCC : Yes/No

Index : Yes/No

Speaking Order : Yes/No

To:

Motor Accident Claims Tribunal, (In the V Court of Small Causes, Chennai).



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M.DHANDAPANI, J.

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