



CMA.No.325 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.325 of 2025

Chinnaponnu

... Appellant

Vs.

1.Srinivasan

2.Bbu

3.The New India Assurance Company Limited,
2nd and 3rd Floor, R.G.City Centre,
Local Shopping Complex, Lawrence Road, New Delhi,
Branch at No.16, Trichy Main Road, Gugai, Salem District.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the decree and judgment dated 01.12.2023 passed in MCOP.No.774 of 2022 on the file of the Motor Accident Claims Tribunal cum Special District Judge, MCOP Tribunal at Salem.

For Appellant :Mr.T.S.Arthanareeswaran
For Respondents :M/s.R.Rathna Thara for R3
Ex-parte for R1 and R2



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J U D G M E N T

Aggrieved by the quantum of compensation fixed by the Motor Accident Claims Tribunal, the claimant has come by way of this appeal.

2. It is not in dispute that son of the claimant namely Sivabalan died in a road accident that occurred on 23.03.2022. It was the case of the claimant before the Tribunal that when the deceased was riding a two wheeler in Tharamangalam to Jalagandapuram main road, the Omni car bearing registration No.TN-30-S-0707 belonging to the second respondent was driven by the first respondent in a rash and negligent manner and dashed against the two wheeler of the deceased. As a result of which, the deceased sustained grievous injuries and died on 24.03.2022. The appellant/claimant filed claim petition before the Motor Accidents Claims Tribunal, seeking compensation of Rs.25,00,000/-.



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3. The first respondent/driver of the vehicle was exonerated before the Tribunal and the second respondent/owner of the vehicle remained ex-parte. The 3rd respondent/Insurance Company alone filed counter denying the manner of accident. According to the 3rd respondent, the accident had occurred only on the negligence on the part of the deceased.

4. The Tribunal based on the evidence available on record came to the conclusion that the accident had occurred only due to the negligence on the part of the second respondent's vehicle driven by the first respondent. The Tribunal quantified the compensation payable at Rs.10,65,000/-. Aggrieved by the quantum of compensation, the claimant has come before this Court.

5. The learned counsel appearing for the appellant would submit that the accident had occurred in the year 2022 and the notional income of Rs.10,000/- awarded by the Tribunal that too including the future prospects is very much on the lower side and the same requires enhancement.



6. The learned counsel appearing for the second

respondent/Insurance Company would submit that the claimant has not produced any document to prove the notional income of the deceased and hence the Tribunal was justified in fixing Rs.10,000/- including future prospects as the monthly income of the deceased.

7. In the claim petition, it was averred by the claimant that the deceased was employed as granite stone polish worker, Royal Granite Company, Selavadai and was earning a monthly income of Rs.30,000/-. However, in order to prove the avocation and income of the deceased, the claimant has not produced any documentary evidence. Even, if no documentary evidence is produced to prove the avocation and income of the deceased, this Court can fix the notional income based on the evidence available on record. In the case on hand, the accident had occurred on 23.03.2022, therefore, taking into consideration the date of accident and the cost of living, this Court deems it appropriate to fix Rs.18,000/- per month as the notional income of the deceased. The Tribunal fixed the age of the deceased at 29 years, based on the Aadhaar Card - Ex.P6. Therefore, the claimant is entitled to Rs.25,70,400/-(Rs.18,000x1.4x12x17x1/2) towards loss of dependency.



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8. Since the accident occurred in the year 2022, the claimant is

entitled to 10% enhancement towards conventional amount as held by Apex Court in National Insurance company Limited Vs Pranay Sethi and others reported in (2017) 16 SCC 680. Therefore, the claimant is entitled to Rs.44,000/- under the head parental consortium. The claimant is also entitled to Rs.33,000/- for funeral expenses and loss of estate. In all the total compensation payable to the claimant is Rs.26,47,400/-. The award passed by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Loss of dependency	10,20,000/-	25,70,400/-
2.	Loss of Parental consortium	20,000/-	44,000/-
3.	Funeral Expenses and loss of estate	25,000/-	33,000/-
	Total	Rs.10,65,000/-	Rs.26,47,400/-

In view of the discussions made earlier, the Civil Miscellaneous Appeal is allowed and the claimant is directed to pay the additional Court Fee. The 3rd respondent is directed by the Tribunal to pay the amount to the



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claimant and recover it from the second respondent/owner of the vehicle and the said order is affirmed. The 3rd respondent is directed to deposit the enhanced award amount together with interest at 7.5% per annum from the date of claim petition till the date of deposit (excluding the delay period of 274 days as per order in CMP.No.29434 of 2024) to the credit of MCOP.No.774 of 2022 within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant is permitted to withdraw the award amount by making formal application.

9. Accordingly, this Civil Miscellaneous Appeal is allowed.

No costs.

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Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To
1.The Motor Accident Claims Tribunal
cum Special District Judge, Salem.

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



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S.SOUNTHAR, J.

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