



C.M.A.No.327 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.327 of 2025

1.Bhuvaneswari

2.Minor.Deepadarshini

3.Minor.Sudharshini

... Appellants

(Minors are represented by their next friend/mother Bhuvaneswari)

vs.

1.Suresh

2.National Insurance Company Ltd.,
Mount Road, Branch Office,
2nd Floor, Khivraj Mansion,
No.738, Anna Salai, Chennai

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to all the appeal and enhance the award dated 03.12.2021 in MCOP No.35 of 2019 on the file of Special District Judge, MCOP Tribunal, Salem.



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For Appellants : Mr.R.Navaneetha Krishnan

For R2 : M/s.R.Sree Vidhya

For R1 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Special District Judge, Motor Accident Claims Tribunal, Salem in M.C.O.P.No.35 of 2019, dated 03.12.2021, claimants have come by way of this appeal.

2. It is the case of the claimants that the husband of the 1st claimant and father of the claimants 2 and 3 namely Satheeskumar travelled in a Tempo Traveller bearing Registration No.TN 66-B-8562 on 14.05.2018 from Ooty to Chennai. The vehicle, which is owned by the 1st respondent and insured with the 2nd respondent was driven by it's driver in a rash and negligent manner. Due to the rash and negligent driving of the vehicle by the driver, it had dashed against the right side divider and consequently got capsized. Due to the said accident, the husband of the 1st claimant sustained grievous injuries and died on the spot. Hence, a claim petition was filed



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seeking compensation of Rs.60,00,000/-.

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3. Before the Tribunal, the 1st appellant/1st claimant was examined as PW.1 and on behalf of the claimants, 14 documents were marked as Exs.P1 to P14. On behalf of the respondents, no witness was examined and no document was marked.

4. The 1st respondent remained *exparte* before the Tribunal. The insurer of the Tempo Traveller namely the 2nd respondent filed counter and contested the claim petition on the ground that van carried more persons than permitted capacity and in view of the policy violation on the part of the 1st respondent, the 2nd respondent/Insurance Company was not liable to pay compensation.

5. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the rash and negligent driving of the vehicle by the 1st respondent's driver and hence, fastened the liability on the 2nd respondent to pay the compensation. The amount payable to the claimants was quantified at Rs.15,65,000/-. Not satisfied with the



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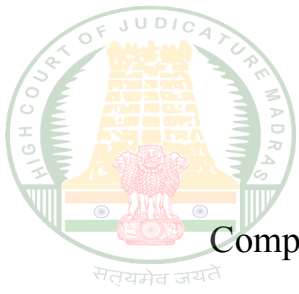
quantum of compensation, the instant appeal has been filed by the claimants.

6. Heard the learned counsel appearing for the appellants-claimants and the learned counsel appearing for the 2nd respondent-Insurance Company.

7. Both the learned counsel appearing for the appellants/claimants as well as learned counsel appearing for the 2nd respondent/Insurance Company have not raised any arguments on the questions of negligence and liability. Hence, facts necessary to decide those questions are not discussed in this judgment.

8. The learned counsel appearing for the appellants/claimants would submit that the amount of Rs.12,000/- per month fixed by the Tribunal as notional income is very much on lower side and it requires enhancement.

9. The learned counsel appearing for the 2nd respondent/Insurance



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Company would submit that the claimants have not produced any documentary evidence to prove the avocation and income of the deceased and hence, the Tribunal was justified in fixing Rs.12,000/- per month as notional income of the deceased.

10. In the claim petition it was stated by the claimants that the deceased was running a Grocery Shop and was earning a sum of Rs.60,000/- per month. However, to prove the avocation and income of the deceased, the claimants have not produced any documents. In these circumstances, taking into consideration the date of accident and cost of living, this Court is inclined to fix Rs.16,500/- as notional income of the deceased. As per the Ex.P10-Aadhaar Card, the Tribunal fixed the age of the deceased at 40 years. Therefore, the claimants are entitled to 25% enhancement toward future prospects. The applicable multiplier is 15. Since there are three dependents, $1/3^{\text{rd}}$ of the amount shall be deducted towards personal expenses of the deceased. Hence, the loss of dependency is fixed at Rs.24,75,000/- (Rs.16,500 x 1.25 x 12 x 15 x 2/3).

11. The amount of Rs.40,000/- awarded by the Tribunal under the



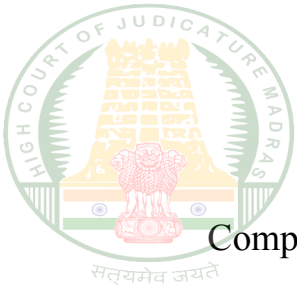
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head loss of consortium to 1st claimant is affirmed. The amount of Rs.60,000/- awarded by the Tribunal towards loss of love and affection to the claimants 2 and 3 is increased to Rs.80,000/-. The amount of Rs.25,000/- awarded by the Tribunal under the head funeral expenses is modified and enhanced to Rs.30,000/- under two heads namely funeral expenses and loss of estate. In all claimants are entitled to Rs.26,25,000/-.

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

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Loss of Income	Rs.14,40,000/-	Rs.24,75,000/-	Enhanced
2.	Loss of love and affection	Rs.60,000/-	Rs.80,000/-	Enhanced
3.	Loss of consortium	Rs.40,000/-	Rs.40,000/-	Confirmed
4.	Funeral Expenses + Loss of Estate	Rs.25,000/-	Rs.30,000/-	Enhanced
Total		Rs.15,65,000/-	Rs.26,25,000/-	Enhanced by Rs.10,60,000/-

13. Accordingly, the compensation awarded by the Tribunal is enhanced to Rs.26,25,000/- from Rs.15,65,000/-. The 2nd respondent/Insurance



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Company is directed to deposit the enhanced award amount of Rs.26,25,000/-

together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation (excluding the delay period of 917 days as per the order made in C.M.P.No.29910 of 2024, dated 21.01.2025), to the credit of M.C.O.P.No.35 of 2019 on the file of the Special District Judge, Motor Accidents Claims Tribunal, Salem, after deducting the amount deposited already, if any, within a period of six weeks from the date of receipt of copy of this judgment.

14. The minor claimants 2 and 3 are entitled to Rs.6,00,000/- each. The 1st claimant is entitled to balance amount of Rs.14,25,000/-.

15. The share of the minor claimants 2 and 3 shall 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 minor claimants 2 and 3, is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account **once in three months** and the same shall be used for the welfare of the minor claimants 2 and 3.



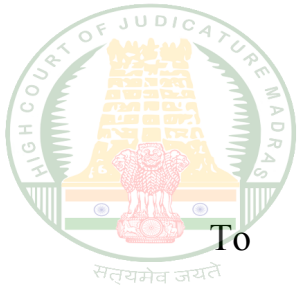
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WEB COPY 16. On such deposit, the 1st appellant/1st claimant is entitled to withdraw her share of the amount by making formal application before the Tribunal. The appellants/claimants are directed to pay applicable additional court fee.

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

21.03.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm



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To

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- 1.The Special District Judge,
MCOP Tribunal, Salem.
- 2.National Insurance Company Ltd.,
Mount Road, Branch Office,
2nd Floor, Khivraj Mansion,
No.738, Anna Salai, Chennai.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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