



C.M.A.No.382 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 14.02.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.382 of 2025

1.Babykala
2.Aravindkumar
3.Karthikeyan

Rajammal

... Appellants

VS.

1.Sumathi

2.Reliance General Insurance Company Limited,
3rd Floor, No.29, North Usman Road,
T Nagar, Chennai

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the appeal and enhance the award dated 22.08.2023 in MCOP No.1285 of 2016 on the file of Special District Judge, MCOP Tribunal, Salem.

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

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



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2. It is not in dispute that the husband of the 1st claimant, father of the claimants 2 and 3 and son of the deceased 4th claimant namely Rajagopal died in a road accident that had taken place on 05.11.2014. Both the learned counsel appearing for the appellants as well as learned counsel appearing for the 2nd respondent have not advanced any arguments on the question of negligence and liability. Therefore, facts necessary to decide the question of negligence and liability have not been discussed in this judgment.

3. Before the Tribunal, the 1st claimant/1st appellant was examined as PW.1 and no witness was examined on the side of the respondents.

4. The 1st respondent remained *exparte* before the Tribunal and hence, notice to the 1st respondent is dispensed with.

5. Based on the evidence available on record, the Tribunal awarded a sum of Rs.10,25,000/- in favour of the claimants 1 to 3. Not satisfied with the quantum of compensation awarded by the Tribunal, the appellants/claimants have come by way of this appeal.



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6. The learned counsel appearing for the appellants/claimants submits that the accident had taken place on 05.11.2014. However, the Tribunal fixed notional income including future prospects only at the rate of Rs.10,000/- per month and the same requires enhancement. The learned counsel further submits that at the time of filing of claim petition, the mother of the victim was alive and she was arrayed as 4th claimant. Pending the claim petition, she died and the claimants 2 and 3 are her legal representatives. The Tribunal committed an error in rejecting the amount of Rs.2,00,000/- towards share of deceased 4th claimant.

7. The learned counsel appearing for the 2nd respondent would submit that claimants have not produced any documents to prove the avocation and the income of the deceased and hence, the amount of Rs.10,000/- per month fixed by the Tribunal is proper.

8. As far as the deduction of Rs.2,00,000/- is concerned, the learned counsel appearing for the 2nd respondent fairly submitted that the Tribunal ought not have deducted the same when legal representatives of the deceased 4th claimant were already on record.



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9. As per the averment in the claim petition, it is the case of the claimants that deceased was an agriculturist and also engaged in milk vending and real estate business. However, they have not produced any documents to prove the avocation or income of the deceased. In the claim petition, the claimants had stated that deceased was earning Rs.12,000/- per month. Taking into consideration that the accident had taken place in the year 2014, even though no documents were produced to prove the income of the deceased, the notional income can be fixed at Rs.12,000/- per month as claimed by the claimants. Therefore, this Court proceeds to fix the notional income of the deceased at Rs.12,000/- per month. The claimants are also entitled to an addition of 10% towards future prospects having regard to the age of the deceased. Therefore, the income of the deceased can be fixed at Rs.13,200/- per month including future prospects.

10. Therefore, the claimants are entitled to a sum of Rs.10,69,200/- under the head loss of dependency ($\text{Rs.13,200} \times 12 \times 9 \times \frac{3}{4} = 10,69,200/-$). The amount awarded by the Tribunal under various other heads appear to be normal and the same are confirmed.



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11. As far as the deduction of Rs.2,00,000/- towards share of deceased 4th claimant is concerned, admittedly, the legal heirs of deceased 4th claimant namely the grand children (children of predeceased son) are arrayed as claimants 2 and 3. Therefore, the Tribunal ought not have deducted the said amount. Hence, the deduction of Rs.2,00,000/- towards share of the deceased 4th claimant is set aside. Accordingly, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Loss of Income	Rs.8,10,000/-	Rs.10,69,200/-
2.	Loss of love and affection	Rs.80,000/-	Rs.80,000/-
3.	Loss of consortium	Rs.40,000/-	Rs.40,000/-
4.	Medical Expenses	Rs.2,70,000/-	Rs.2,70,000/-
5.	Funeral Expenses	Rs.25,000/-	Rs.25,000/-
	Total	Rs.12,25,000/-	Rs.14,84,200/-
	The share of the 4 th petitioner was deducted from the total compensation by the Tribunal	Rs.2,00,000/-	Set aside
	Total	Rs.10,25,000/-	Rs.14,84,200/-

12. In view of the discussion made earlier, the compensation awarded by the Tribunal is enhanced from Rs.10,25,000/- to Rs.14,84,200/-. The claimants are entitled to interest on the enhanced amount from the date of



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claim petition to the date of realisation. However, as per the order passed by this Court in C.M.P.No.153 of 2025, dated 24.01.2025, the claimants are not entitled to interest for the delay period (380 days).

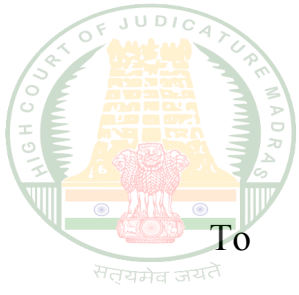
13. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.14,84,200/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation (excluding delay period i.e., 380 days), to the credit of M.C.O.P.No.1285 of 2016 on the file of the Special District Judge, MCOP Tribunal, Salem, within a period of four weeks from the date of receipt of copy of this judgment. On such deposit, the appellants/claimants are entitled to withdraw the award amount now enhanced by this Court by making formal application.

14. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

14.02.2025

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

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- 1.The Special District Judge,
MCOP Tribunal, Salem.
- 2.Reliance General Insurance Company Limited,
3rd Floor, No.29, North Usman Road,
T Nagar, Chennai.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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