



C.M.A.No.113 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 28.01.2025

CORAM:

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

C.M.A.No.113 of 2025

1. R.Ezhilarasi
2. R.Srinivasan

...Appellants

Vs.

1. N.Ramachandran (Expartee)
2. Reliance Gen. Ins. Co. Ltd.,
No.6, Haddows Road, Reliance House,
6th Floor, Nungambakkam, Chennai – 600 034.

Now Residing at
Reliance Gen. Ins. Co. Ltd.,
Legal Claims Team – Chennai,
Building No.(10 & 11), Chennai City Center,
No.13, 5th floor, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

3. Neelambal (Expartee)

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the judgment and decree dated 18.03.2024 made in MCOP.No.2227 of 2018 on the file of the Motor Accident Claims Tribunal, (the Learned IV Court of Small Causes), Chennai.



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For Appellants : Mr.T.G.Ravichandran

For Respondents : Mrs.R.Sreevidhya, for R2

JUDGEMENT

Challenging the judgment and decree dated 18.03.2024 made in MCOP.No.2227 of 2018 on the file of the Motor Accident Claims Tribunal, (the Learned IV Court of Small Causes), Chennai, the claimants are before this Court.

2. It is the case of the appellants/claimants that, on 06.09.2017 at about 8.20 hrs., when the deceased Rajendran was taking rest in the platform of the Sholinganallur K.K.Salai left side, at that time, a van bearing Regn.No.TN-19-Z-0222 owned by the 1st respondent insured with the 2nd respondent driven by its driver came in a rash and negligent manner and dashed against him, due to which the deceased Rajendran sustained grievous injuries and succumbed to the same. Thereby, the appellants, who are the dependents of the deceased Rajendran, filed a claim petition seeking compensation of Rs.12,00,000/-.

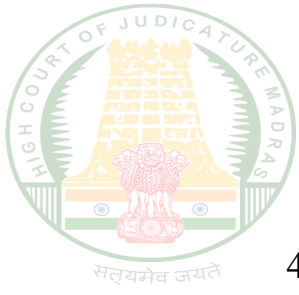


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Before the tribunal, the claimants examined two witnesses viz. P.W.1 & P.W.2 and marked exhibits P.1 to P.12 and on the side of respondents, one witness viz. R.W.1 was examined and exhibits R.1 to R.4 were marked. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent, however, awarded a meagre compensation of Rs.11,45,500/-. Challenging the same, the appellants/claimants have come up with this appeal.

3. Learned counsel appearing for the appellants submitted that admittedly, the accident is of the year 2017 and at the time of accident, the deceased was only aged about 50 years and was working as a Mechanic and in addition to that he was also working as a Tailor and was earning a sum of Rs.15,000/- per month, however, the tribunal had fixed the monthly income of the deceased as Rs.7,500/- which is very meagre and the compensation awarded under the other heads are also on the lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.



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4. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, she prayed for dismissal of the appeal.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The factum and manner of the accident is not in dispute and therefore, this Court is not entering into the said aspect and the major grievance of the appellants is with regard to the quantum of compensation awarded by the tribunal. Admittedly, the accident is of the year 2017 and at the time of accident, the deceased was aged about only 50 years and it is the claim of the appellants/claimants that the deceased was a Mechanic by profession and in addition to that he was also doing tailoring job and was earning a sum of Rs.15,000/-. However, the tribunal had fixed the notional income of the deceased as Rs.7,500/-, which is very meagre.



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7. 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.14,000/- 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.17,500/-. Deducting 1/3rd towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.11,667/- per month and the deceased being aged about 50 years, as evidenced from the records, adopting the multiplier of 13 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in (2009) 6 SCC 121, the loss of income to the family is arrived at Rs.11,667/- * 12 * 13 = Rs.18,20,052/-.

8. Insofar as the compensation awarded under the other heads are concerned, this Court is of the view that the compensation awarded under



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other heads are just and reasonable and the same does not requires interference of this Court.

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

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of dependency	9,75,000/-	18,20,052/-
Loss of consortium	1,32,000/-	1,32,000/-
Funeral Expenses	16,500/-	16,500/-
Loss of estate	16,500/-	16,500/-
Transportation expenses	5,500/-	5,500/-
Total	11,45,500/-	19,90,552/-

10. Accordingly, the appeal stands allowed in part and this Court, while confirming the pay and recovery ordered by the tribunal as against the 1st respondent, modifies the impugned award by enhancing the compensation from **Rs.11,45,500/-** to **Rs.19,90,552/-**. The 2nd respondent/Insurance company is directed to deposit the said amount to the credit of MCOP.No.2227 of 2018



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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 weeks from the date of receipt of a copy of this judgment. In the above enhanced amount, the 1st appellant is entitled to a sum of Rs.10,00,000/- and the 2nd appellant is entitled to a sum of Rs.4,00,000/- and the 3rd respondent is entitled to a compensation of Rs.5,90,552/-, with proportionate interest and costs. On such deposit being made, the Tribunal is directed to transfer the same directly to the bank account of the appellants through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. It is underscored that the appellants and the 3rd respondent are not entitled to any interest for the default period, if any. No costs.

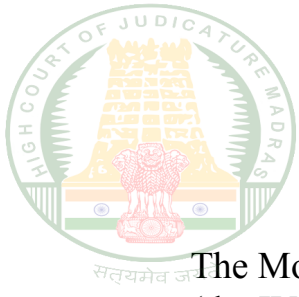
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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

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The Motor Accident Claims Tribunal,
(the IV Court of Small Causes), Chennai.

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M.DHANDAPANI, J.

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