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CMA.No.379 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.379 of 2025

1. A.Muthulakshmi
2. Minor A. Lokesh
3. Minor A.Anbarasu
4. Valli

Minors 2 and 3 appellants rep. by their mother
and natural guardian Mrs.A.Muthulakshmi,
1st appellant

... Appellants

Vs.

- 1.The Commissioner,
Greater Corporation of Chennai.
Rippon Buildings, Periyar EVR Salai,
Chennai 600 003.

2. United India Insurance Co. Ltd.,
Silingi Buildings, No.134, Greams Road,
Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded by the Chief Judge, Motor Accident Claims Tribunal, Court of Small Causes in MCOP No.2337 of 2020, dated 18.10.2023.

For appellants : Ms.P.T.Saleem Fathima



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For Respondents : Mr.D.B.R.Prabhu, standing Counsel

for 1st respondent

Mr.S.Arunkumar, for 2nd respondent

JUDGMENT

Not satisfied quantum of compensation awarded by the Tribunal, the claimants have come before this court by filing the present appeal.

2. According to the claimants, the husband of the 1st claimant, father of the 2nd and 3rd claimants and son of the 4th claimant died in a road accident that had occurred on 18.06.2020. It is the case of the claimants that the deceased was taking rest on 1 1/2 height platform at Kodungaiyur Garbage yard and at that point of time, a garbage lorry bearing registration No.TN 04-AW-4710 belonged to the 1st respondent, insured with the 2nd respondent was driven in a rash and negligent manner by its driver and dashed against the victim. As a result of accident, the victim suffered grievous injuries and died on the spot. Therefore, the claimants filed a claim petition seeking compensation of Rs.40,00,000/-.

3. The first respondent, owner of the lorry and the second respondent, insurer of the lorry were arrayed as respondents in the claim petition. The respondents opposed the claim petition on the



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ground that accident had occurred only due to 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 driver of the lorry belonging to the first respondent and insured with the 2nd respondent. The compensation payable to the claimants was quantified by the Tribunal at Rs.17,02,000/-. Not satisfied with the quantum of compensation, the claimants have come before this court by filing the present appeal.

5. Both the counsel for the appellants and the respondents have not raised any arguments on the questions of negligence and liability and hence, the facts necessary to decide those issues are not considered in this appeal.

6. The learned counsel for the appellants would submit that the the notional income fixed by the Tribunal at Rs.8,000/- per month is very much on lower side and the same requires enhancement.



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7. The learned counsel for the second respondent would submit that the claimants have not produced any documentary evidence to prove the income and avocation of the deceased and hence, the Tribunal was justified in fixing notional income at Rs.8,000/- per month.

8. In the claim petition, it was stated by the claimants that the deceased was a construction worker and he was earning a sum of Rs.500/- per day. However, they have not produced any document to prove the income and avocation of the deceased. Even if there is no proof of income, this court can fix notional income by taking into consideration the facts and circumstances of the case, date of accident and also the prevailing cost of living. In the case on hand, the accident had occurred in the year 2020 and hence, taking into consideration the plea raised in the claim petition, this court proceeds to fix a sum of Rs.15,000/- per month as notional income. As per Ex.P2 postmortem Report and Ex.P5 death certificate, the Tribunal fixed the age of the deceased as 38 and hence, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 15.



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Since there were 4 dependents, on the date of accident, $\frac{1}{4}$ amount shall be deducted towards personal expenses of the deceased. Accordingly, loss of dependency is fixed at Rs.28,35,000/- ($15,000 \times 1.40 \times 12 \times 15 \times \frac{3}{4}$)

9. The amount awarded by the Tribunal under the heads loss of consortium, loss of love and affection, loss of filial consortium, loss of Estate and Funeral expenses are in accordance with the law settled by the Apex Court in *National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157* and hence, the same are confirmed.

10. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	15,12,000	28,35,000	enhanced
2.	Loss of consortium to	1,60,000	1,60,000	confirmed



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	first claimant, Loss of love and affection to claimants 2 and 3 and filial consortium to 4th claimant			
3.	Loss of estate	15,000	15,000	confirmed
4.	Funeral expenses	15,000	15,000	confirmed
	Total	17,02,000	30,25,000	enhanced by Rs.13,23,000

11. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.17,02,000/- is hereby enhanced to **Rs.30,25,000/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit, excluding the delay period of 44 days as per order in CMP No.30010 of 2024 dated 24.01.2025.

12. From the above compensation now determined, the first claimant/wife is entitled to Rs.12,75,000/-, and the minors /claimants 2 and 3 are entitled to Rs.7,50,000/- each, and the 4th claimant/ mother is entitled to Rs.2,50,000/-.



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13. The **second respondent** is directed to deposit the compensation amount now determined by this Court to the credit of MCOP No.2337 of 2020 on the file of Chief Judge, MACT, Court of Small Causes, Chennai, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit being made, the claimants 1 and 4 shall be permitted to withdraw their respective compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

14. Since the claimants 2 and 3 being minors, their respective share shall be deposited in Fixed Deposit in any one of the nationalized banks initially for a period of 3 years and the same shall be renewed periodically till their attainment of majority. The first claimant, being guardian of claimants 2 and 3 is entitled to withdraw the accrued interest thereon once in six months and the same shall be used for the welfare of the minors/ claimants 2 and 3.



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There shall be no order as to costs.

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

1. The Chief Judge
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTCHAR, J.

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