



C.M.A.No.402 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.402 of 2025

1.Unies Priscilla

2.Daniel Caleb Cornelius

3.Simon Prince

... Appellants

vs.

1.J.Rathish

2.Mahindra World City Developers Ltd.,
Natham Sub [PO], Chengalpattu TK.,
Kancheepuram Dist.,

3.The Manager
Reliance General Ins. Co. Ltd.,
No.6, Reliance House, 4th Floor,
Hattows Road, Nungambakkam,
Chennai – 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree of Motor Accidents Claims Tribunal, Chief Judge, Small Causes Court at Chennai made in MACTOP.No.1682 of 2020 dated 26.06.2024 and to enhance the award amount from Rs.8,53,621/- to Rs.12,00,000/-.



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For Appellants : M/s.P.T.Saleem Fathima

For R3 : Mr.P.Suresh Srinivasan

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, claimants have come by way of this Civil Miscellaneous Appeal.

2. It is not in dispute that the father of the claimants namely Paul Nedumaran sustained injury and died in a road accident that had taken place on 27.01.2020. Both the learned counsel appearing for the appellants as well as learned counsel appearing for the 3rd respondent have not advanced any arguments on the question of negligence and liability aspects. Therefore, facts necessary for deciding those questions are not discussed in this judgment.



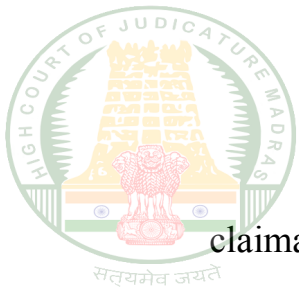
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3. Before the Tribunal, the 2nd appellant/2nd claimant was examined as PW.1 and one eyewitness-P.Harikrishnan was examined as PW.2. On the side of the appellants/claimants, 13 documents were marked as Exs.P1 to P13 and no one was examined on the side of the respondents. On the side of the respondents, no document was marked.

4. Based on the evidence available on record, the Tribunal awarded a sum of Rs.8,53,621/- in favour of the claimants. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have come by way of this appeal.

5. The learned counsel appearing for the appellants/claimants would submit that the claimants are the daughter and sons of the deceased. When there are three dependents, the Tribunal committed a serious error in deducting one half (50%) towards personal expenses and hence, the award passed by the Tribunal shall be modified to that extent.

6. The learned counsel appearing for the 3rd respondent/Insurance Company would submit that the 1st claimant is the married daughter and the



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claimants 2 and 3 are majors aged about 39 and 36 years respectively and hence, the Tribunal is justified in deducting 50% towards personal expenses of the deceased.

7. As per the evidence available on record, the deceased received a pension of Rs.22,151/- per month at the time of death. The Tribunal used applicable multiplier 5 and arrived at Rs.6,64,530/- towards loss of dependency. However, the Tribunal deducted one half of the amount towards personal expenses of the deceased.

8. In the absence of road accident, the deceased, would have continued to receive the pension amount and the children of the deceased would have had the benefit of the said amount after deducting personal expenses of the deceased. As per the law laid down by the Apex Court in ***Sarla Verma and others vs. DTC and others*** reported in ***(2009) 6 SCC 121*** for the dependants upto 3 persons, 1/3 amount shall be deducted. In the case on hand, the Tribunal deducted 50% of the amount and the same is against the law laid down by the Apex Court in the above mentioned case.



9. Accordingly, this Court is inclined to deduct only $\frac{1}{3}^{\text{rd}}$ of the amount. In that case, the claimants are entitled to Rs.8,86,040/- towards loss of dependency. The amount of Rs.29,091/- awarded under the head medical expenses is based on evidence available on record and the other amounts awarded by the Tribunal under various heads like loss of estate, loss of consortium, funeral expenses and transportation charges are in accordance with law laid down by the Apex Court in *National Insurance Company Limited vs. Pranay Sethi and others* reported in (2017) 16 SCC 680.

Therefore, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Towards Loss of Income/Dependency	Rs.6,64,530/-	Rs.8,86,040/-
2.	Medical Expenses as per bills	Rs.29,091/-	Rs.29,091/-
3.	Towards Loss of Estate	Rs.15,000/-	Rs.15,000/-
4.	Towards Loss of Consortium	Rs.1,20,000/-	Rs.1,20,000/-
5.	Towards Funeral Expenses	Rs.15,000/-	Rs.15,000/-
6.	Towards Transportation Charges including damages to personal belongings	Rs.10,000/-	Rs.10,000/-
	Total	Rs.8,53,621/-	Rs.10,75,131/-



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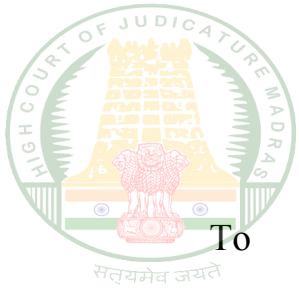
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10. In view of the discussion made earlier, the award of compensation at Rs.8,53,621/- granted by the Tribunal is enhanced to Rs.10,75,131/-. The 3rd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.10,75,131/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.1682 of 2020 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai, 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.

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

17.02.2025

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



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To

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- 1.The Motor Accidents Claims Tribunal,
Chief Judge, Small Causes Court, Chennai.
- 2.The Manager
Reliance General Ins. Co. Ltd.,
No.6, Reliance House, 4th Floor,
Hattows Road, Nungambakkam,
Chennai – 600 006.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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