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CMA No. 2079 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2079 of 2023

1. Tmt. S. Thilagalakshmi
No.C-1167, Balasubranya Salai, Periyar
Nagar, Chennai-600 082

2. N Settu
No.C-1167, Balasubranya Salai, Periyar
Nagar, Chennai-600 082

Appellant(s)

Vs

1. Gangisetty Seshu Babu
No.302, NVS Residency, Huda Colony,
Andhra Pradesh, Chanda Nagar, Near
Old Police Station-500 050

2.ICICI Lombard General Insurance
Company Ltd,
Chottabai Centre, No.140m 2nd and 3rd
Floor, Nungambakkam High Road,
Chennai-34

Respondent(s)



CMA No. 2079 of 2023

PRAYER

To enhance the order of the tribunal and passed an entire award for a sum of Rs.37,50,000/- as against the order of the tribunal in MCOP.No.2889/2011 on the file of the Chief Motor Accident Claims Tribunal at Small Causes Court Chennai

CMA No. 2079 of 2023

For Appellant(s): T G Ravichandran

For Respondent(s): R.Sree Vidhya For R2 R1 -no
Appearance

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to enhance the order of the tribunal and passed an entire award for a sum of Rs.37,50,000/- as against the order of the tribunal in MCOP.No.2889/2011 on the file of the Chief Motor Accident Claims Tribunal at Small Causes Court Chennai(in short "tribunal").

2.The brief facts of the case:

On 13.12.2010 at about 13.50 hours, while the deceased was walking near NAC gate, Madhapur, the first respondent's car bearing registration. No. AP-28-AU-7115 came in a very rash and negligent manner, hit the deceased, due to which, the deceased sustained fatal injuries and died on the spot. Thereafter, the claimants filed the petition before the tribunal claiming compensation of Rs.



37,50,000/- under various heads. The second respondent/Insurance company

contested the case by filing counter. After considering the oral and documentary

evidence, the Tribunal awarded a sum of Rs.19,72,500/- to the claimants.

Challenging the quantum of compensation, the claimants preferred this appeal.

3. The learned counsel for the claimants/appellant herein submits that even though the income of the deceased has been proved with the help of the authorisation letter/Ex.P11 and also through pay slip/Ex.P14, the tribunal erroneously fixed Rs.12,500/- as monthly income instead of Rs.16,208/-. Therefore, he prayed to enhance the award passed by the tribunal.

3. Per contra, the learned counsel for the respondent raised objection stating that employer of the deceased was examined as P.W.3 and considering the same the tribunal has fixed last drawn salary of deceased as Rs.12,500/- per month. Thereby, he submits that award passed by the tribunal as such is well reasoned one needs no interference.

4. Heard the submission of the learned counsel for the either side, as rightly pointed out by the counsel for the appellant. As per the pay slip/Ex.P15 deceased earned a sum of Rs.17,363/- per month in the month of November



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2010. Admittedly, the accident was happened on 03.12.2010. After deduction

deceased earned Rs.16,208/- which was his last drawn salary. As per the

authorisation letter/Ex.P3, at the time of the accident, he was employed in F&B

supervisor Cyberaban Convention Centre Private Limited, Hyderabad.

Therefore, as per the pay slip of the deceased his last drawn salary was

Rs.16,208/-. But, the Tribunal has drastically reduced the income of the

deceased to Rs.12,500/- by deducting GPF amount and other heads. The learned

counsel submits that while accessing the basic salary of the deceased transport

allowance, provident fund, PF loan and leave encashment are to be added to that

effect he relied the judgment of the Supreme Court in the case of National

Insurance Company Vs. Nalini and others reported in 2024 ACJ 1637.

Therefore, by considering the said authority, the last drawn salary of the

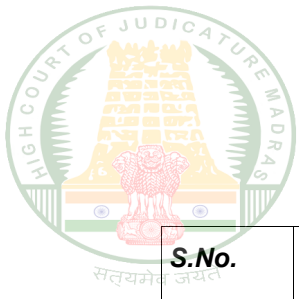
deceased is fixed as Rs.16,000/-. Accordingly, monthly income of the deceased

was Rs.16,000/-. Further, the claimants are entitled to Rs.80,000/- for loss of

consortium and Rs.15,000/- for loss of estate. Except above modification, the

award passed by the tribunal is confirmed. Further, interest for the delay period

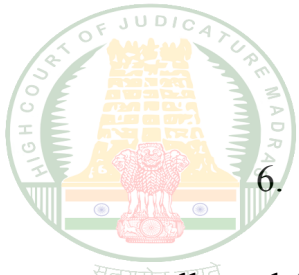
is ordered to be waived. $(16,000 + 8,000 \times 17 \times 12 - 1/2 = 24,48,000/-)$



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S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of income/dependence	Rs.19,12,500/-	Rs.24,48,000/-
2.	For love and affection	Rs.20,000/-	Rs.20,000/-
2.	Loss of estate	Rs.10,000/-	Rs.15,000/-
3.	Loss of consortium	NII	Rs.80,000/-
4.	Funeral expenses	Rs.25,000/-	Rs.25,000/-
5.	Transportation charges	Rs.5,000/-	Rs.10,000/-
	Total	Rs. 19,72,500/-	Rs.25,98,000/-

5. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to **Rs.25,98,000/-**. The respondent is directed to deposit the said amount - together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of **MCOP.No.2889/2011, on the file of the Chief Motor Accident Claims Tribunal at Small Causes Court Chennai**, within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the appellant/claimant is permitted to withdraw the award amount by making formal application before the Tribunal. The respondent may deduct the amount, if any amount has already deposited before the tribunal.



6. With the above direction, the Civil Miscellaneous Appeal is partly

allowed. No Costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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No.302, NVS Residency, Huda Colony,
Andhra Pradesh, Chanda Nagar, Near
Old Police Station-500 050

2. ICICI Lombard General Insurance
Company Ltd,

Chottabai Centre, No.140m 2nd and 3rd
Floor, Nungambakkam High Road,
Chennai-34.

3. The Section officer, V.R Section,
High Court, Madras.

4. The Chief Motor Accident Claims
Tribunal at Small Causes Court
Chennai



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T.V.THAMILSELVI J.
pbl

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