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C.M.A.No.265 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.265 of 2025

Chittibabu (deceased)

- 1.C.Lakshmi
- 2.Selvi
- 3.Thamizharasan
- 4.Muniammal

... Appellants

Vs.

- 1.Delin Williams
(R1 – Already set Exparte in Lower Court)
(R1 – Notice may be Dispense with)
- 2.The United India Insurance Company Limited,
No.235, New Military Road,
Avadi, Chennai – 600 054.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award passed by the Motor Accidents Claims Tribunal, III Additional District Court, Thiruvallur at Poonamallee, in M.C.O.P.No.420 of 2010 dated 05.04.2014 and enhance the award amount.



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For Appellants : M/s.Maithri Mahalingam
For Respondents : R1 – NDW
Mr.D.Baskaran for R2

J U D G M E N T

This appeal has been filed against the judgment and decree dated 05.04.2014 passed by the Motor Accidents Claims Tribunal, III Additional District Court, Thiruvallur at Poonamallee, in M.C.O.P.No.420 of 2010.

2.The learned counsel appearing for the appellants submitted that on 21.02.2010, at about 19.00 hours, Chittibabu was crossing Gandhi Mandapam Salai from East to West. At that time, the motorcycle bearing Registration No.TN-05-F-2898 belonging to the first respondent and insured with the second respondent came in a rash and negligent manner from North to South and dashed against Chittibabu, due to which, he sustained injuries. Thereafter, the injured Chittibabu filed claim petition before the Tribunal, claiming compensation of Rs.20 Lakhs. During the pendency of the claim petition the said Chittibabu died and his legal heirs/ appellants herein were impleaded in the claim petition.



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3.The learned counsel appearing for the appellants further submitted that after adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.50,000/- with interest at the rate of 7.5% p.a. from the date of petition i.e., 22.04.2010 till the date of deposit and costs and directed the respondents to jointly or severally deposit the compensation amount. Aggrieved by the same, the appellants claimants have filed this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that Chittibabu met with the accident on 21.02.2010 and he died during the pendency of the claim petition on 18.01.2013, however, the Tribunal passed award only in respect of injury on the ground that his death did not occur due to the accident. The learned counsel further submitted that as per Ex.P8 – medical certificate stating the reason for death, issued by public health and welfare department of Chennai Corporation, the death occurred due to 'head injury with left hand amputation with bed sore resulting in cardiac arrest'. The learned counsel further submitted that mere non availability of records cannot negativate the claim and hence the Tribunal not awarding compensation towards fatal and awarding



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compensation towards injury is not sustainable one.

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5.The learned counsel appearing for the appellants prayed this Court to award compensation as per the ratio laid down in the decision of the Hon'ble Apex Court in *Sarla Varma and Ors. v. Delhi Transport Corporation and Anr.* reported in 2009 (2) L.S. 29 (S.C.) and in the decision of the Hon'ble Apex Court in National Insurance Company Limited Vs. Pranay Sethi and others reported in MANU/SC/1366/2017.

6.The learned counsel appearing for the second respondent Insurance Company submitted that the accident occurred on 21.02.2010 and medical records for continuous treatment is available only till 09.12.2010 and thereafter no medical record is available, thereby the Tribunal passed award by treating the case as injured case and further submitted that the compensation awarded by the Tribunal is just and reasonable and hence, the impugned judgment warrants no interference.

7.Heard the learned counsel appearing for the appellants claimants as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on



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record.

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8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect.

9.Insofar as the quantum of compensation is concerned, the tribunal after elaborately discussing the factual aspects awarded a sum of Rs.50,000/- for medical expenses and extra nourishment with interest at the rate of 7.5% p.a. from the date of petition i.e., 22.04.2010 till the date of deposit.

10.Perusal of Ex.P8 – medical certificate stating the reason for death, issued by public health and welfare department of Chennai Corporation reveals that the death occurred due to 'head injury with left hand amputation with bed sore resulting in cardiac arrest'. When such medical record is available before the Tribunal, the Tribunal refusing to pass award by treating the case as fatal is not sustainable one. Hence, the award passed by the Tribunal warrants interference.



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11.The accident is of the year 2010. The original claimant was

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aged about 55 years at the time of accident. Hence, in the absence of any income proof, this Court by applying the law laid down by the Hon'ble Apex Court in Syed Sadiq case, fix a sum of Rs.9,000/- as the monthly notional income of the original claimant and 10% of income is awarded for future prospects. Since, there are four dependants, $\frac{1}{4}$ of the amount has to be deducted towards personal expenses and the correct multiplier to be adopted is multiplier 11. Accordingly, a sum of Rs.9,80,100/- [$\text{Rs.9,000/-} \times 10\% = \text{Rs.900/-}$; $\text{Rs.9,000/-} + \text{Rs.900/-} = \text{Rs.9,900/-}$; $\text{Rs.9,900/-} \times \frac{1}{4} = \text{Rs.2,475/-}$; $\text{Rs.9,900/-} - \text{Rs.2,475/-} = \text{Rs.7,425/-}$; $\text{Rs.7,425/-} \times 12 \times 11 = \text{Rs.9,80,100/-}$] is awarded for pecuniary loss.

12.This Court is of the opinion that some amount has to be awarded for loss of estate, funeral expenses, loss of love and affection. Accordingly, this Court awards a sum of Rs.15,000/- for loss of estate, a sum of Rs.15,000/- for funeral expenses, a sum of Rs.80,000/- for loss of love and affection. The amount awarded by the Tribunal towards medical expenses and extra nourishment, in the opinion of this Court is not necessary and the same is deleted.



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13. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Pecuniary loss	---	Rs.9,80,100/-
2.	Funeral Expenses	---	Rs. 15,000/-
3.	Loss of love and affection	---	Rs. 80,000/-
4.	Loss of estate	---	Rs. 15,000/-
5.	Medical expenses and extra nourishment	Rs.50,000/-	---
	Total	Rs.50,000/-	Rs.10,90,100/-

14. The claimants are entitled to total compensation of Rs.10,90,100/- along with interest at the rate of 7.5% p.a. from the date of petition i.e., 22.04.2010 till the date of deposit.

15. The civil miscellaneous appeal is partly allowed. The judgment and decree dated 05.04.2014 passed by the Motor Accidents Claims Tribunal, III Additional District Court, Thiruvallur at Poonamallee, in M.C.O.P.No.420 of 2010, is modified to the above extent. No costs.



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16.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, III Additional District Court, Thiruvallur at Poonamallee, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

28.01.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

8/9



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1.The Motor Accidents Claims Tribunal,
III Additional District Court, Thiruvallur at
Poonamallee.

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M.DHANDAPANI,J.
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