



C.M.A.No.51 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.51 of 2025

Thirupathi

... Appellant

Vs.

1.M/s.Cargowings Logistics Limited
Old No.319, New No.4,
Valluvarkottam High Road,
Nungambakkam,
Chennai-600 034.

2.The Manager,
HDFC Ergo General Insurance Company Limited,
New No.528, Old No.559, 2nd Floor,
Anna Salai, Teynampet,
Chennai-600 018.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.11.2016 made in M.C.O.P.No.228 of 2016 on the file of the Special District Court, Krishnagiri.



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For Appellant : Mr.Mukund R.Pandiyan

For R2 : Mr.T.K.Premkumar

J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Court, Krishnagiri, in M.C.O.P.No.228 of 2016, dated 25.11.2016, has filed this appeal.

2. On 02.12.2015 at about 10.10 a.m., when the deceased, namely, Ragu @ Ragupathy was proceeding in a motorcycle near Dhandekuppam Diversion road, while turning the motorcycle towards the right side of the road to go to Krishnagiri, a lorry belonging to the first respondent came from the Milk Diary side and proceeding towards Chennai in a rash and negligent manner, dashed against the motorcycle, due to which, the accident happened. The first respondent is the owner of the lorry and the second respondent is the insurer of the lorry. Under these circumstances, the claim petition came to be filed by the appellant/father of the deceased before the



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Tribunal seeking for compensation.
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3. Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P9 were marked. On the side of the respondents, no witness was examined and no document was marked. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the lorry. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.8,06,000/- under various heads. The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.



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5. The learned counsel appearing for the appellant submitted that the Tribunal has erred in not considering future prospects while calculating the loss of earnings and the appropriate multiplier is “18” as per ***Sarla Verma & Others. Vs. Delhi Transport Corporation & Others (2009 (6) SCC 121)***, however, the Tribunal has adopted the multiplier of “17” and the compensation awarded under the other head is also very meagre.

6. The first respondent remained *ex-parte* before the Tribunal.

7. Per contra, learned counsel appearing for the second respondent / Insurance company denied the manner of accident and claimed that the accident took place only negligence of the deceased and the compensation awarded by the Tribunal is also on the higher side.

8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.



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9. Coming to the quantum of compensation awarded by the Tribunal, it is seen that the claimant though claimed that the monthly salary of the deceased was Rs.20,000/-, however, he has not placed any documentary evidence to prove the same. In such a backdrop, considering the fact that the accident had happened in the year 2015, the Tribunal has rightly taken the monthly income of the deceased at Rs.6,000/-. However, the Tribunal has not fixed the future prospects. Hence, for the purpose of fixing the future prospects of the deceased, taking the age of the deceased at 17 years and by applying the ratio laid down in the case of ***National Insurance Co. Ltd. Vs. Pranay Sethi & others (2017 (16) SCC 680)***, this Court fixes the future prospects at 40% and accordingly, the loss of monthly income of the deceased is calculated at Rs.8,400/- [Rs.6000/- + Rs.2400 (40% of Rs.6,000/-)]. Applying the monthly income at Rs.8,400/- and deducting 50% towards his personal expenses, since the deceased being a bachelor, the loss of monthly income to the family is fixed at Rs.4,200/- (Rs.8,400/- X 50%).



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10. Further, the Tribunal committed error in applying the appropriate multiplier in this case. Having regard to the age of the deceased at the time of his death, i.e., 17 years, the applicable multiplier in terms of ***Sarla Verma & Others. Vs. Delhi Transport Corporation & Others (2009 (6) SCC 121)*** would be '18'. Hence, the loss of earnings would be Rs.4,200/- X 12 X 18 = Rs.9,07,200/-.

11. Insofar as the compensation awarded under the head 'Loss of Love & Affection' to the claimant/father of the deceased is concerned, though the Tribunal has awarded a sum of Rs.2,00,000/- to the claimant, but as laid down in ***Pranay Sethi case***, the amount that could be awarded under the said head is only Rs.40,000/-, and accordingly, the said amount is reduced to Rs.40,000/- to the claimant, viz., the father of the deceased.



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12. The compensation awarded by the Tribunal under the head funeral expenses at Rs.25,000/- is excessive and the same is reduced to Rs.15,000/-. The Tribunal has not awarded any compensation under the head loss of estate, hence, this Court is inclined to award a sum of Rs.15,000/- under the head loss of estate. Since the Tribunal has awarded a meagre sum of Rs.5,000/- towards transport to hospital, this Court is inclined to fix a sum of Rs.10,000/-.

13. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Loss of earnings	Rs.5,76,000/-	Rs.9,07,200/-
2	Transport to Hospital	Rs.5,000/-	Rs.10,000/-
3	Funeral Expenses	Rs.25,000/-	Rs.15,000/-



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<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
4	Loss of love and affection	Rs.2,00,000/-	Rs.40,000/-
5	Loss of Estate	-	Rs.15,000/-
	Total	Rs.8,06,000/-	Rs.9,87,200/-

14. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.8,06,000/- is hereby enhanced to Rs.9,87,200/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. However, it is made clear that the appellant/claimant is not entitled for the interest for the default period. The second respondent is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.228 of 2016 on the file of the Motor Accidents Claims Tribunal



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(Special District Court), Krishnagiri. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn, by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

21.01.2025

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb

To

1.The Motor Accidents Claims Tribunal (Special District Court),
Krishnagiri.

2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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