



C.M.A. (MD) No. 880 of 2025

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DATED : 25.08.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.880 of 2025
and
C.M.P.(MD)No.13666 of 2025

United India Insurance Co. Ltd.,
rep by its Regional Manager,
Gandhiji Road, LIC Building,
Thanjavur.

... Appellant/
2nd Respondent

Vs.

1.Vidhya

2.Minor Dheeran
(*represented by his natural guardian Vidhya*)

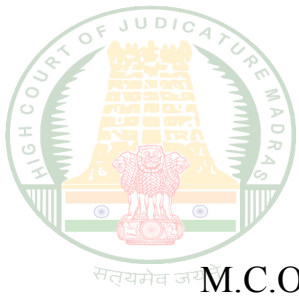
3.Durairasu

4.Manjula

5.The Correspondent,
Little Rose Matriculation School,
Orattanad Taluk, Thanjavur.

... Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the award dated 25.04.2024 passed in



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M.C.O.P.No.725 of 2023 on the file of the Motor Accidents Claims Tribunal (Special District Court), Thanjavur.

For Appellant : Mr.K.Jeyamohan

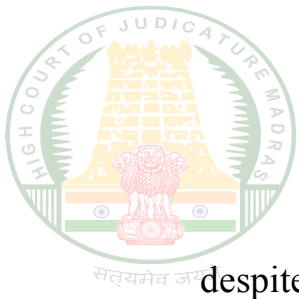
For Respondents : Mr.M.P.Senthil for R1 to R4

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.725 of 2023 dated 25.04.2024 on the file of the Motor Accident Claims Tribunal / Special District Court, Thanjavur.

2. The appellant / insurer, who was mulcted with liability to pay a compensation of Rs.43,91,320/- (Rupees Forty Three Lakhs Ninety One Thousand Three Hundred and Twenty only) with interest at 7.5% per annum and costs to the respondents 1 to 4 / claimants, for the death of Bharath, consequent to an accident occurred on 12.04.2023, challenged the entire liability mulcted on it and also the quantum of compensation awarded at, by the Tribunal.

3. The learned counsel appearing for the appellant would submit that the deceased was not wearing a helmet at the time of accident and



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despite specific defence taken by the appellant, the Tribunal, by relying on the judgment of the Hon'ble Supreme Court in *Mohamed Siddique and another Vs. National Insurance Company Ltd., and others* reported in **2020 (1) TN MAC 161 (SC)**, has rejected the said contentions. He would further submit that in the said decision case, since the deceased was riding a motorcycle along with two persons, the Hon'ble Apex Court has observed that that by itself may not make the deceased guilty of contributory negligence. It is pertinent to note that the Tribunal in that case recorded a finding that the deceased was wearing a helmet and hence, the above decision case cannot be made applicable to the case on hand. The fact remains that the deceased was not wearing protective headgear at the time of accident and hence, this Court is inclined to attribute contributory negligence at 5% on the deceased.

4. The learned counsel appearing for the appellant would submit that the Tribunal, in the absence of any evidence to prove the income of the deceased, by relying on some judgments, fixed the monthly income of the deceased at Rs.19,600/-. Admittedly, the respondents 1 to 4 have taken a stand that the deceased was working as a driver at Singapore and was

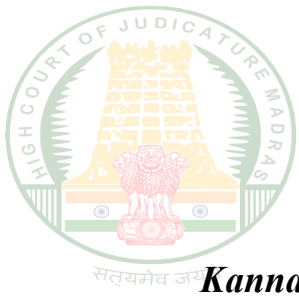


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getting Rs.1,50,000/- per month. Though the respondents 1 to 4 have produced the ID card to show that the deceased was working at Singapore and also the salary certificate and payment vouchers, the Tribunal has rightly held that the respondents 1 to 4 have not produced any other evidence to corroborate the said documents and that the income of the deceased cannot be ascertained through the said documents.

5. No doubt, as rightly pointed out by the learned counsel appearing for the respondents 1 to 4, the Tribunal, by referring to the judgment of the Hon'ble Supreme Court in *Manusha Sreekumar Vs. The United India Insurance* reported in **2022 (2) TN MAC 596 (SC)**, wherein, Hon'ble Apex Court has fixed the notional income of the deceased died in the year 2015 as Rs.15,600/-, has fixed the notional monthly income of the deceased at Rs.19,600/-. As rightly contended by the learned counsel appearing for the appellant, the Hon'ble Supreme Court, in *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TN MAC 459**, has fixed the monthly income at Rs.6,500/- for a vegetable vendor, who sustained injuries in the accident which occurred in the year 2008 and that the Hon'ble Division Bench of this Court in *Andal and others Vs. Avinav*

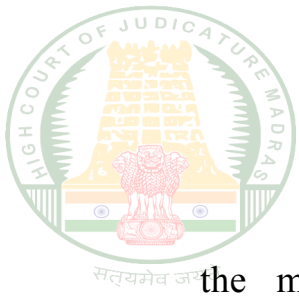


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Kannan and another reported in **2019 1 TN MAC 54 (DB)**, by taking into the amount fixed by the Hon'ble Supreme Court in **Syed Sadiq's case** at Rs.6,500/-, has applied the cost of inflation index issued by the Central Board of Direct Tax and fixed the notional monthly income of the deceased. As per the above index, the cost of inflation index for the year 2007-2008 is 129 and for the year 2023-2024 is 348. Hence, the notional income of the deceased would be Rs.17,534/- (Rs.6,500/- x 348 / 129) rounded off to Rs.17,500/-. Hence, this Court fixes the monthly income of the deceased at Rs.17,500/-.

6. As rightly observed by the learned trial Judge, as per the decision of the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others** reported in **2017 (2) TN MAC 609 (SC)**, 40% of the income has to be added towards future prospects as the deceased was aged 28 years at the time of accident and after such addition, the monthly income would come to Rs.24,500/- (Rs.17,500 + Rs.7,000/-). Considering the number of dependents, the learned trial Judge has rightly deducted 1/4th of the income towards personal and living expenses of the deceased and after such deduction, the monthly income comes to Rs.18,375/- (Rs.24,500/- - Rs.6,125/-). The Tribunal has rightly applied



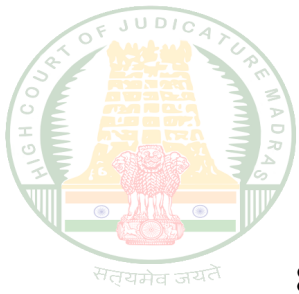
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the multiplier 17 and hence, the loss of dependency would be Rs.37,48,500/- (Rs.18,375/- x 12 x 17).

7. The Tribunal has rightly awarded Rs.40,000/- to the first respondent towards spousal consortium, Rs.40,000/- to the second respondent towards parental consortium and Rs.40,000/- each to the respondents 3 and 4 towards filial consortium and moreover, the respondents 1 to 4 are also entitled to get Rs.15,000/- for funeral expenses and Rs.15,000/- towards loss of estate. Considering the above, the respondents 1 to 4 are entitled to get total compensation of Rs.39,38,500/-. Accordingly, the compensation awarded by the Tribunal is modified as follows:-

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	41,98,320	37,48,500	Reduced
2.	Consortium	1,60,000	1,60,000	Confirmed
3.	Loss of estate	18,000	15,000	Reduced
4.	Funeral expenses	15,000	15,000	Confirmed
	Total	43,91,320	39,38,500	Reduced by Rs.4,52,820/-



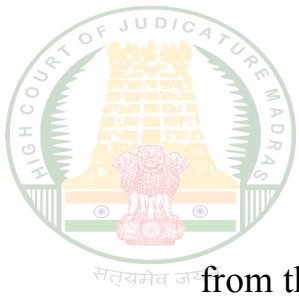
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8. As decided earlier, for not wearing the helmet, this Court has to deduct 5% of the total compensation awarded to the respondents 1 to 4. After such deduction, the total amount of compensation would be Rs. 37,41,575/- (Rs.39,38,500/- - Rs.1,96,925/-).

9. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded at Rs.43,91,320/- (Rupees Forty Three Lakhs Ninety One Thousand Three Hundred and Twenty only) is hereby reduced to Rs.37,41,575/- (Rupees Thirty Seven Lakhs Forty One Thousand Five Hundred and Seventy Five only). The appellant/insurer is directed the deposit modified award amount with interest at 7.5% per annum from the date of petition till the date of payment, excluding the default period, if any, to the credit of M.C.O.P.No.725 of 2023 on the file of the Motor Accident Claims Tribunal / Special District Court, Thanjavur, less the amount already deposited, if any, within a period of four weeks



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from the date of receipt of a copy of this judgment. On such deposit being made, the respondents 1 to 4 are entitled to the following shares together with interest:-

Respondents	Amount
First respondent (Wife of the deceased)	Rs.19,41,575/- + Interest
Second respondent (Son of the deceased)	Rs.8,00,000/- + Interest
Third respondent (Father of the deceased)	Rs.4,00,000/- + Interest
Fourth respondent (Mother of the deceased)	Rs.6,00,000/- + Interest
Total	Rs.37,41,575/-

The respondents 1, 3 and 4 are permitted to withdraw their shares along with interest and costs and the share of the minor second respondent shall be deposited in any one of the Nationalised Banks till he attain majority. The first respondent, who is the mother of the minor second respondent, is permitted to withdraw the interest of minor once in three months directly from the Bank. If the amount was already deposited, the balance amount shall be withdrawn by the appellant/insurer. Consequently, connected Miscellaneous Petition is closed.

25.08.2025

NCC : Yes/No
Index : Yes/No
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To:

1. The Special District Judge,
Motor Accident Claims Tribunal,
Thanjavur.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Judgment made in
C.M.A.(MD)No.880 of 2025
and
C.M.P.(MD)No.13666 of 2025

Dated : 25.08.2025