BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2025

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A(MD)No.291 of 2025
and
C.M.P(MD)No.14564 of 2025

1.R.Sunitha
2.Minor R.Kavibala
3.Minor R.Sruthibala
4.Minor Dhoni Deepan Raj
(Minor 2 to 4 appellants through their
mother and next friend first appellant)
5.Shanmugathai
6.Ramapandi ...Appellants/Claimants

Vs.

1.S.Pandian
2.National Insurance Company ltd.,
Secundrabad, Telungana,
having and dealing office at
No.40A, Divisional Office,
Peraira Street,
Thoothukudi. ...Respondents/Respondents

Prayer:-This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the award/order passed in M.A.C.O.P.No.14 of 2020, on the file of the Motor Vehicle Accident Claims Tribunal (1st Additional District Judge), Thoothukudi dated 12.02.2025 insofar as against the disallowed portion of compensation.

For Appellantw	: Mr.R.Balakrishnan
For R1	: No appearance
For R2	: Mr.A.S.Mathialagan

J U D G M E N T

(Judgment of the Court was made by the Hon'ble P.VELMURUGAN J.)

This Civil Miscellaneous Appeal has been filed by the appellants-claimants against the award, dated 12.02.2025, made in M.C.O.P.No.14 of 2020, passed by the I Additional District Court/Motor Vehicle Accidents Claims Tribunal, Thoothukudi.

2.The appellants/claimants filed a claim petition in M.C.O.P.No. 14 of 2020, before the I Additional District Court / Motor Accident Claims Tribunal, Thoothukudi, claiming a sum of Rs.2,00,00,000/- (Rupees Two Crores only) as compensation, for the death of one Raja, husband of the first appellant and father of the appellants 2 to 4 and son of the appellants 5 & 6.

3.Facts of the case:-

According to the appellants, on 06.11.2018 at about 7.30 p.m., when the deceased Raja was riding a two-wheeler Reg.No.TN-69-AP-7291 along with other as pillion rider slowly and carefully in Thoothukudi-Kulathoor road at Samathuvapuram from south to north on his extreme left and at that time, the container vehicle bearing Reg.No.TN-28-BC-5357 was driven by its driver in a rash and negligent manner in the opposite direction and hit against the above two-wheeler. Due to which, the said Raja sustained grievous injuries all over the body and he died on the spot. The deceased was 32 years at the time of accident and was working as Labour Contractor in VKS Foods Pvt., Ltd., and was earning a sum of Rs.30,000/- per month. The appellants are the legal heirs and dependants of the deceased. The container vehicle was insured with the second respondent Insurance Company. Hence, they filed a claim petition, claiming a sum of Rs.2,00,00,000/- as compensation.

4.The first respondent remained ex-parte before the Tribunal.

5. The second respondent filed counter statement and denied all the averments made in the claim petition. According to the second respondent, the vehicle of the first respondent has not involved in the

accident. The pillion rider has sustained no injury in the accident. Therefore, the accident has not taken place as alleged in the petition.

6. Before the Tribunal, the first appellant/first claimant examined herself as P.W.1 and three other witnesses were examined as P.Ws.2 to 4 and marked 31 documents as Exs.P.1 to P.31. On the side of the respondents R.W.1 and R.W.2 were examined, Ex.R1 and Ex.X1 to Ex.X4 were marked.

7. The Tribunal, considering the pleadings, oral and documentary evidence and arguments of the learned Counsel for the appellants/claimants, came to the conclusion that the accident occurred only due to the rash and negligent driving by the driver of the lorry belonging to the first respondent and awarded a sum of Rs.19,13,000/- and directed the respondents 1 & 2 jointly and severally to pay the said compensation to the claimants.

8. Aggrieved by the quantum of compensation granted in award dated 12.02.2025, the appellants/claimants have filed the present appeal for enhancement of compensation. However, the Insurance Company has not filed any appeal challenging the liability and quantum.

9. The learned counsel for the appellants would submit that the deceased was earning Rs.30,000/- per month prior to the accident. However, the Tribunal has failed to consider the same and fixed the notional income of Rs.12,000/-. The appellants have examined P.W.3, who is the work contractor, also filed a statement of accounts, the same were marked as Ex.P30 and Ex.P31. Further, they have also filed income tax returns as Ex.P16 and Ex.P28. The trial Court has failed to consider the said income tax returns and erroneously fixed the monthly income of Rs.12,000/-. Therefore, the claimants have filed the present appeal for enhancement of quantum fixed by the Tribunal.

10. The learned counsel for the second respondent would submit that the claimants have not proved the actual income of the deceased and they filed the income tax returns and it does not reflects the actual income and no materials are produced that the deceased was earning Rs.30,000/- per months. Therefore, in the absence of nature of avocation and income, the trial Court has rightly fixed the notional income of Rs.12,000/- per month and hence, the claimants are not entitled to any enhancement of compensation.

11. We have heard the learned counsel appearing for the appellants and the learned counsel appearing for the second respondent and perused the materials available on record.

12. The accident is not in dispute and the liability is also not in dispute and there is no dispute regarding the insurance policy is also in force at the time of accident. Now the appeal has been filed by the claimants for enhancement of compensation on the ground that though the deceased was earning Rs.30,000/- per months, the tribunal has fixed the monthly income at Rs.12,000/-. A reading of the evidence of P.W.3 it shows that the deceased was engaged with works contract and he has filed the income tax returns in the name of the deceased. Though the deceased died in the month of November 2018, the income tax returns filed for the assessment year 2017-2018, it shows that the annual income of the deceased was Rs.2,50,818/-, but the previous year i.e., 2016-2017 shows that the annual income was Rs.61,374/- and for the year 2019-2020 the annual income was at Rs.1,49,905/-.

13. Considering the age of the deceased, nature of work done by him, the income tax returns Ex.P16 and Ex.P28, the monthly income fixed by the Tribunal is very meagre and therefore, this Court is inclined to fix the

monthly income of the deceased at Rs.20,000/-. The loss of income of the deceased would be Rs.20,000 x 12 x 16 = 38,40,000/- and after deducting 1/4th towards personsal expenses of the deceased, the amount would be Rs.28,80,000/-. The Tribunal has granted a sum of Rs.40,000/- towards loss of consortium for the first petitioner and has granted a sum of Rs.20,000/- to each of the claimants towards loss of love and affection. However, the first claimant/wife is entitled to only loss of consortium alone and hence, a sum of Rs.40,000/- awarded by the Tribunal towards loss consortium to the first claimant / wife is confirmed. The tribunal has awarded a sum of Rs. 20,000/- each to the claimants the said amount is very meagre and therefore, this Court is awarded a sum of Rs.40,000/- towards loss of love and affection to the claimants 2 to 6 and a sum of Rs.20,000/- awarded to the first claimant towards loss of love and affection is modified. The amount awarded by the Tribunal in all other heads are confirmed.

14. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

15. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income	17,28,000	28,80,000	enhanced
2.	For loss of consortium (1st appellant)	40,000	40,000	confirmed
3.	For loss of love and affection (appellants 2 to 6)	1,20,000 (20,000 x 6)	2,00,000 (40,000 x 5)	enhanced
4.	For funeral expenses	25,000	25,000	confirmed
	Total	Rs.19,13,000	Rs.31,45,000	By enhancing a sum of Rs. 12,32,000/-

16. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.19,13,000/- (Rupees Nineteen Lakhs Thirteen Thousand only) to a sum of **Rs.31,45,000/-** (Rupees Thirty One Lakhs Forty five Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The the respondents 1 & 2 are directed to deposit the award amount, less the amount already deposited, if any, along with accrued interest and costs to the credit of M.C.O.P.No.14 of 2020, on the file of the

Motor Vehicles Accidents Claims Tribunal (I Additional District Judge), Thoothukudi, within a period of **eight weeks** from the date of receipt of copy of this judgment;

(iii) The appellants-claimants are directed to pay the additional Court Fees, if any, within a period of **two weeks** from the date of receipt of a copy of this judgment;

(iv) On such deposit being made, the appellants 1, 5 & 6 are entitled to get their shares with interest as per the apportionment made by the Tribunal by making necessary application before the Tribunal. The Tribunal shall deposit shares of the appellants 2 to 4 in any one of the Nationalized bank in a Fixed Deposit, initially for a period of three years and renewable thereafter, till the minor attains majority. The mother of the appellants 2 to 4 is permitted to withdraw the accrued interest once in three months directly from the bank. No costs. Consequently, connected miscellaneous petition is closed.

(P.V.,J.) (L.V.G.J.,)
06/11/2025

Index : Yes/No.
Internet : Yes/No.
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To:

The Motor Vehicle Accident Claims Tribunal
(1st Additional District Judge), Thoothukudi

P.VELMURUGAN,J.
and
L.VICTORIA GOWRI,J.
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C.M.A(MD)No.291 of 2025

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