BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28/10/2025

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THE HONOURABLE MS JUSTICE R.POORNIMA

CMA(MD)No.1076 of 2025

1.Irulandi
2.Elayaraja : Appellants/Claimants

Vs.

1.Baskaran

2.The Manager,
Solamandalam MS General Insurance Company Ltd.,
Door Nos.3, 4 – First Floor,
New Millineum Complex,
Dindigal Highway, Kalavasal,
Madurai. : Respondents/Respondents
(R1 set ex-pate before the Trial Court,
Hence, notice may be dispensed with)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount in MCOP No.64 of 2021 on the file of the Motor Accident Claims Tribunal/Sub Judge, Manamadurai, dated 26/11/2024.

For Appellants : Mr.K.Kumaravel

For 1st Respondent : Dispensed with

For 2nd Respondent : Mrs.K.R.Shivashankari

JUDGMENT

This Civil Miscellaneous Appeal is filed seeking enhancement of compensation made in MCOP No.64 of 2021 on the file of the Motor Accident Claims Tribunal/Sub Judge, Manamadurai, dated 26/11/2024.

2.**The facts of the case in nutshell**:-

On 25/08/2021 at about 04.30 hours, the deceased was driving the Swaraj Masa Vehicle No.TN-39-BM-5748 with goods on Kovai-Salem Highways road. When proceeding near Kuppanur Kollachidau, new bridge service diversion, the driver of the 1st respondent Lorry No.TN-07-BS-1224 came in a rash and negligent manner and dashed against the deceased vehicle coming behind. In that process, the deceased sustained injury and died on the spot. The legal heirs of the deceased, filed a claim petition seeking compensation of Rs.50,00,000/- on the ground that the offending vehicle caused the accident. It is their further case that the deceased was 25 years at the time of the accident and he is a driver by profession and earning Rs.30,000/- per month.

3.The 1st respondent remained *ex-parte* before the Tribunal. The 2nd Insurance Company filed their counter disputing the manner of the accident, occupation and income of the deceased and its liability to pay the compensation. It was also contended that the claim is excessive and exorbitant.

4.To substantiate the case, on the side of the claimants, 2 witnesses were examined as PW1 and PW2 and marked 16 documents. On the side of the 2nd respondent Insurance Company, no oral and documentary evidence was let in.

5.The Tribunal, on consideration of the oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.17,18,200/- together with the interest @ 7.5% per annum and directed the 2nd respondent Insurance Company to pay the said amount to the claimants.

6.Not being satisfied with the award of the Tribunal, the claimants as appellants filed the present appeal.

7.Though the claimants have stated in the claim petition that the deceased was earning Rs.30,000/- per month, PW1, the father of the deceased, in his evidence had clearly admitted that no document was produced in support of the above submission. Hence, the Tribunal, by fixing Rs.11,000/- as notional income, assessed the Loss of Income as Rs.16,63,200/-. Then, by awarding amounts under various heads, arrived the compensation as Rs.17,18,200/-.

8.It is contended by the learned counsel appearing for the appellants that though PW1 had categorically stated in his evidence that his son was a driver by profession and thereby earning Rs.30,000/- per month, the Tribunal had fixed notional income as Rs.11,000/-, which is very meagre.

9.Per contra, the learned counsel appearing for the second respondent Insurance Company would state that the Tribunal, after considering the evidence of PW1, had fixed the income as Rs11,000/- and since there is no material to support the case of the claimants, the amount cannot be enhanced.

10.Heard the learned counsel appearing on either side and perused the materials available on record.

11.In the instant case, the accident had taken place in the year 2021. This Court perused the evidence of PW1 and find that there is some force in the contention of the learned counsel appearing for the appellants. Perusal of the records would reveal that the deceased was a driver. Since no reliable document has been filed on the side of the claimants, the Tribunal has fixed the monthly income of the deceased at Rs.11,000/- However, considering the facts and circumstances of the case and also the cost of living at the relevant point of time, to meet the ends of the justice, it is proper to fix the income of the deceased as Rs.17,000/- per month. It is settled law that in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. In the instant case, the Tribunal has rightly added future prospects at 40% to calculated the income of the deceased. By doing so, the monthly income of the deceased is calculated at Rs.23,800/- (Rs.17,000/- + Rs.6,800/-). Since the deceased was bachelor, after deducting 1/2th towards his personal and living expenses, the monthly income is arrived at Rs.11,900/- (Rs.23,800 x ½). By applying proper multiplier 18, this Court awards **Rs.25,70,400/-** (Rs.11,900/- x 18 x 12) towards loss of income. In addition to that, as per the decisions in the case of **Pranay Sethi and Magma General Insurance**, this Court awards each Rs.40,000/- towards loss of filial consortium to the claimants; Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. According the compensation awarded by the Tribunal to the claimants are re-quantified as follows:-

Head	Amount awarded by the Tribunal	Re-qauntified Amount by this Court	Status
Loss of Income	**16,63,200/-**	**25,70,400/-**	**Enhanced**
Loss of love and affection	**40,000/-**	**-**	**Set aside**
Filial Consortium	**--**	**80,000/-**	**Granted**
Funeral expenses	**10,000/-**	**15,000/-**	**Enhanced**
Loss of estate	**-**	**15,000/-**	**Granted**
Transportation	**8,000/-**	**-**	**Set aside**
Total	**17,18,200/-**	**26,80,400/-**	

14.In such view of the matter, this Civil Miscellaneous Appeal is **partly allowed** and award amount is enhanced to **Rs.26,80,400/-** from Rs.17,18,200/-. The 2nd Respondent Insurance Company is directed to deposit the modified amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such compliance, the claimants namely the appellants are permitted to withdraw their share as apportioned by the Tribunal with accrued interests and costs, less already withdrawn. The claimants are also directed to pay necessary court fee for the enhanced amount. No costs.

28.10.2025

Index:Yes/No
Internet:Yes/No

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To,

1.The Motor Accident Claims Tribunal,
Sub Court, Manamadurai.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madura.

R.POORNIMA, J.,

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