



C.M.A.(MD)No.114 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.114 of 2025

1.Indirani

2.Thangavel

... Appellants / Petitioners

Vs.

1.Shanthi

2.United India Insurance Company Limited,
Through its Branch Manager,
Govindan Complex,
Madurai Road, Melur,
Madurai District.

... Respondents / Respondents

(The appellants / claimants are not entitled to the interest for the delay period of 711 days (in filing) as per order dated 29.01.2025 made in C.M.P.(MD)No.11967 of 2024)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the fair and decreetal order made in M.C.O.P.No.607 of 2019 on the file of the Motor Accidents Claims Tribunal / 3rd Additional District Judge, Tirunelveli, dated 10.06.2022.

For Appellants : M/s.A.Banumathy

R-1 : No appearance

For R-2 : Mr.K.Jeyamohan



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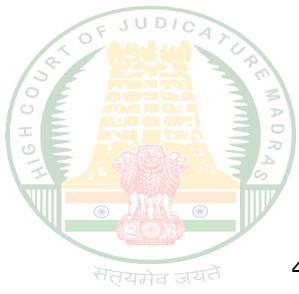
JUDGMENT

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Challenging the order passed by the Motor Accident Claims Tribunal / 3rd Additional District Judge's Court, Tirunelveli, in M.C.O.P.No.607 of 2019, dated 10.06.2022, the claimants have filed this Civil Miscellaneous Appeal.

2. For the sake of convenience, the parties herein are referred as per their ranking before the Tribunal.

3. The claimants are the petitioners. The first respondent is the owner of the vehicle and the second respondent is the insurance company. On 18.12.2018 at about 1:15 P.M., while the deceased Sundarrajan was walking along the Trichy-Madurai National Highway near Kattapatti tollgate, the driver of the first respondent in a rash and negligent manner drove one Bolero bearing registration No. TN-63-AX-1813 and dashed against the said Sundarrajan, as a result of which, he sustained grievous injuries and died on the spot. A FIR in crime No.813 of 2018 was registered under Sections 279, 337 and 304 (A) of IPC by the Melur Police station. Seeking to compensate the death of the deceased, his parents have filed the claim petition.



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4. The deceased was an unmarried person who was 23 years old at the time of accident. The claim of the claimants is that the deceased person was employed in TVS Quality Department earning an amount of Rs.15,000/- (Rupees Fifteen Thousand only) per month. The Learned Tribunal examined two witnesses on the side of the petitioners as PW-1 and PW-2 thereby marking exhibits P1 to P6. Neither witnesses nor any documents were marked on the side of the respondents. Though the petitioners marked the salary receipt of the deceased person as Exhibit P5, since the said salary receipt do not process an endorsement of the employer, the same was rejected by the learned Tribunal.

5. The learned Tribunal adopted the dictum of the Honourable Division Bench of this Court in ***Andal and two others .vs. Abhinav Kannan and New India Assurance Company Limited, Chennai, reported in 2019 (1) TNMAC 54 (DB)*** adopted the living index method and taking into consideration that the accident had happened on 2018, the cost of living index was taken as Rs.274/- which was multiplied by 30 and arrived at an amount of Rs.8220/- as notional income of the deceased. Thereafter adding 40% towards future prospectus and an amount of Rs.3288/- was arrived at and the same was added with Rs. 8220/- and arriving at an amount of Rs.11,508. Since the deceased



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person was an unmarried person, for dependency, 50% was deducted, i.e., 11,508 - 50%, after deducting Rs.5754/- from Rs.11,508 an amount of rupees Rs.5754/- was arrived as the notional income of the deceased. Therefore, an amount of Rs.12,42,864/- (5754 x12 x 18) was arrived at under the head loss of income.

6. The Hon'ble Division Bench of the Madras High Court in the case of **Andal and two others .vs. Abhinav Kannan and New India Assurance Company Limited, Chennai, reported in 2019 (1) TNMAC 54 (DB)**, while taking the notional income of the victim for which case there is no proper income proof has taken the income fixed in **Syed Shadiq case reported in (2014) 2 SCC 735** by the Hon'ble Apex Court at Rs.6500/- and the cost of inflation index '129' provided by the Central Board of Direct Taxation for the financial year 2007-2008, the year of accident in Syed Shadiq case as the constant parameters and had taken up the cost of inflation index provided by the Central Board of Direct Taxation for the financial year, in which accident year the notional income has to be calculated.

7. However, since the death of the deceased was in the month of December 2018, the learned Tribunal ought to have taken the cost of



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living index for the year 2018 - 2019, which would be Rs.280 instead of cost of inflation index it is stated as cost of living index. Referring the cost of index as cost of living index, the learned Tribunal has adopted the cost of inflation index. Therefore the income of the deceased ought to have been taken as

$$\frac{6500 \times 280}{129} = \text{Rs.14,108/-}$$

40% of Rs.14,108/- is equal to Rs.5843/-, the same could be added towards future prospects,

$$\frac{14108 + 5843}{2} = \text{Rs.9975.5/-}$$

Hence, the notional income would be arrived at Rs.9,975.5/- and the loss of income would be arrived at Rs. 9975.5 x 12 x18 = Rs. 21,54,708/-

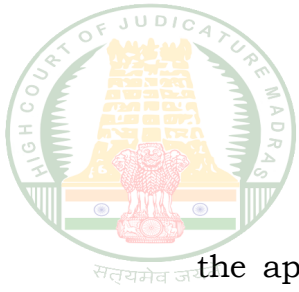
8. Considering all the above circumstances, the award passed by the Tribunal is modified as follows:



S. No.	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced
1.	Loss of income	Rs.12,42,864/-	Rs.21,54,708/-	enhanced
2.	Loss of estate	Rs. 10,000/-	Rs. 15,000/-	enhanced
3.	Transportation	Rs. 10,000/-	Rs. 10,000/-	confirmed
4.	Funeral expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
5.	Loss of parental	-	Rs. 40,000/-	enhanced
	Total	Rs.12,77,864/-	Rs.22,34,708/-	enhanced

9. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the learned Tribunal at Rs.12,77,864/- (Rupees Twelve Lakhs Seventy Seven Thousand Eight Hundred and Sixty Four only) is hereby enhanced to Rs.22,34,708/- (Rupees Twenty Two Lakhs Thirty Four Thousand Seven Hundred and Eight only).

10. The 2nd respondent insurance company is directed to deposit the enhanced compensation amount with accrued interest and costs to the credit of M.C.O.P.No.607 of 2019 on the file of the Motor Accidents Claims Tribunal / 3rd Additional District Judge, Tirunelveli, within a period of eight weeks (8) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit,



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the appellants / claimants are entitled to get their shares as per the apportionment fixed by the Tribunal, less the amount, if any already withdrawn, by making necessary application before the Tribunal. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. No costs.

20.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

The Motor Accidents Claims Tribunal /
3rd Additional District Judge,
Tirunelveli.

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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