Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 663 of 2022

CNR: {HCMA010398782022}

1. B.Ramya

2. Minor.A.Rahul Srinivasan
   rep. by his mother B.Ramya/1st Appellant

3. Minor A.Pranaov Ranganathan
   rep. by his mother B.Ramya/1st Appellant

..Appellant(s)

Vs

1. A.Enbaselvan

2. Reliance General Insurance Co Ltd
   Rais Towers, 2nd Floor,
   No.2054, 2nd Avenue,
   Next to GRP Jewelry, Anna Nagar,
   Chennai-600 040.

3. R.Dhanalakshmi

..Respondent(s)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 28.04.2021 passed in M.C.O.P.No.2916 of 2016 on the file of the Motor Accidents Claims Tribunal/ 1st Additional District and Sessions Judge, Cuddalore.

For Appellant(s): Mrs.Ramya V.Rao

For Respondent(s): R1-Not ready
Mr.S.Arun Kumar for R2
No appearance for R3

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J U D G M E N T

The unsuccessful claimant Nos.1 to 3/appellants have filed this Civil Miscellaneous Appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, 1st Additional District and Sessions Court, Cuddalore, in M.C.O.P.No.2916 of 2016, vide award dated 28.04.2021.

2. The first claimant/first appellant is the wife of the deceased Ayyappasrinivasan, second and third claimants/second and third appellants are the sons of the deceased and the fourth claimant, who is the father of the deceased, died during the pendency of the claim petition. The fifth claimant/third respondent herein is the mother of the deceased.

3. According to the appellants, on 11.03.2016 at about 08.30 p.m., when the deceased was riding his motorcycle bearing Reg.No.TN 30 5131 on the extreme left hand side of Sethiyathope-Kumbakonam Main Road, near Theepaintha Natchiya Koil, the first respondent's motorcycle bearing Reg.No.TN 09 CC 5278 came in the opposite direction at a high speed in a rash and negligent manner and hit against the deceased's motorcycle, due to which, the deceased was thrown out of his motorcycle and sustained grievous injuries and multiple fractures all over his body and head and he was immediately taken to the Government Hospital, Chidambaram and on the way to the Hospital, he

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died. According to the appellants, the deceased was working as Proprietor of Srinivasa Agencies, Sethiyathope and earned a sum of Rs.50,000/- per month . The first respondent is the owner-cum-rider of the offending vehicle and the second respondent is the insurer of the offending vehicle.

4. The first respondent was called absent and set *ex-parte* before the Tribunal.

5. The second respondent/Insurance Company has filed a counter statement denying the manner of accident.

6. On the side of the claimants, first claimant was examined as P.W.1 and P.W.2 to P.W.4 were examined and Ex.P1 to Ex.P13 were marked. On the side of the respondents, R.W.1 was examined and no document was marked.

7. On appreciation of evidence adduced on either side, the Tribunal held that due to rash and negligent driving of the first respondent, the accident occurred and that at the time of accident, the rider of the motorcycle bearing Reg.No.TN 09 CC 5278/first respondent did not have valid driving licence to drive the vehicle and hence, the Tribunal directed the second respondent/Insurance Company to pay the compensation first and then recover the same from the first respondent. With regard to the quantum of

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compensation, the Tribunal has fixed a sum of Rs. 13,000/- as monthly income of the deceased and added 40% towards future prospects by applying the ratio laid down by the Hon'ble Supreme Court of India in the case of ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in ***2017(2) TNMAC 609 (SC),*** and as per the judgment of the Hon'ble Supreme Court of India in the case of ***Sarla Verma and others vs. Delhi Transport Corporation and others*** reported in ***2009 (2) TNMAC 1 (SC),*** considering the number of dependents of the deceased, 1/4th was deducted towards personal and living expenses of the deceased and the multiplier "15" was adopted, since the age of the deceased was 39 years at the time of accident and thereby, a sum of Rs.24,57,000/- was awarded under the head of loss of income and also the following compensation was awarded under the other heads:-

S.No.	Heads	Amount
1	Loss of Income	Rs.24,57,000/-
2.	Loss of Consortium	Rs.40,000/-
3	Loss of love and affection	Rs.40,000/- (Rs.10,000/- * 4)
4	Transport Expenses	Rs.10,000/-
5	Funeral Expenses	Rs.10,000/-
	Total	Rs.25,57,000/-

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8. Aggrieved by the same, the appellants have preferred this appeal seeking enhancement of compensation.

9. The learned counsel appearing for the appellants would submit that the accident took place in the year 2016 and the deceased was a Proprietor of Srinivasa Agencies, Sethiyathope and was earning a sum of Rs.50,000/- per month. To prove the same, Auditor's report has been filed as Ex.P6 and the Auditor has also been examined as P.W.4 and also Ex.P8/details of assets and liabilities of Srinivasa Agencies has also been produced before the Tribunal. However, the Tribunal has fixed a sum of Rs.13,000/- as notional income of the deceased which appears to be very meager and the same has to be enhanced.

10. *Per contra*, learned counsel appearing for the second respondent / Insurance Company submits that since there was no proof produced for the monthly income of the deceased, the Tribunal has rightly fixed the monthly income of the deceased at Rs.13,000/- per month and there is no infirmity in the monthly income fixed by the Tribunal.

11. This Court considered the submissions made by both sides and perused the materials available on record.

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12. There is no dispute with regard to the manner of accident and the negligence fastened on the rider of the offending vehicle/first respondent. It is seen from the records that the rider of the offending vehicle/first respondent did not have valid driving licence to drive the vehicle at the time of accident and it was proved by the second respondent/Insurance Company by examining a witness from RTO, Chidambaram as R.W.1 and hence, the Tribunal has rightly directed the second respondent/Insurance Company to pay the compensation first and thereafter, recover the same from the first respondent which does not require any interference by this Court.

13. It is relevant to note that the accident took place on 11.03.2016 and at the time of accident, the age of the deceased was 39 years. Though the claimants have relied upon the evidence of P.W.4, who is the Auditor of the deceased and produced Ex.P6 and Ex.P11/Auditor's reports and Ex.P8/details of assets and liabilities of Srinivasan Agencies, in the said exhibits, the Proprietor of Srinivasa Agencies was mentioned as one Dhanalakshmi Ammal and the deceased is the son of the said Dhanalakshmi Ammal. In such circumstances, the claim made by the appellants that the deceased was the proprietor of Srinivasa Agencies and was earning a sum of Rs.50,000/- per month, cannot be taken into consideration and the evidence of Auditor also cannot be taken into account. However, considering the fact that the accident took place on 11.03.2016 and that the deceased was aged about 39 years at the

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time of accident, this Court is inclined to enhance the monthly income of the deceased from Rs.13,000/- to Rs.15,000/- and accordingly, the Loss of income would be:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects 40% of Rs.15,000/-	:	Rs. 6,000/-
		Rs. 21,000/-
Annual Income (21,000 * 12)	:	Rs. 2,52,000/-
Less : Personal expenses Rs.2,52,000/- * 1/4	:	Rs.63,000/-
		Rs.1,89,000/-
Multiplier	:	x 15
Loss of income	**:**	**Rs.28,35,000/-**

14. The Tribunal has already awarded a sum of Rs.40,000/- under the head of loss of consortium to the first appellant, hence, the first appellant is not entitled to get any compensation under the head of loss of love and affection and therefore, a sum of Rs.10,000/- awarded by the Tribunal under the head of loss of love and affection to the first appellant is set aside. A sum of Rs.10,000/- awarded by the Tribunal to each of the appellants 2 and 3 and the third respondent under the head of loss of love and affection is very meager, hence, each of the appellants 2 and 3 and third respondent are entitled to get a sum of Rs.40,000/- and accordingly, a sum of Rs.1,20,000/- is awarded under the head

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of loss of love and affection. A sum of Rs. 10,000/- awarded under the head of funeral expenses appears to be meager and the same is enhanced to Rs.15,000/-. No compensation has been awarded under the head of loss of estate, hence, a sum of Rs.15,000/- is awarded under the head of loss of estate. The compensation awarded by the Tribunal under the other heads, namely, 'loss of consortium and transport expenses" appears to be just and proper and does not require any interference by this Court. Accordingly, the compensation awarded by the Tribunal is modified as hereunder:-

S.No	***Head of Compensation***	***Amount awarded by the Tribunal (Rs)***	***Amount awarded by this Court (Rs)***
1.	Loss of income	Rs.24,57,000/-	**Rs.28,35,000/-**
2.	Loss of Consortium	Rs.40,000/-	Rs.40,000/-
3.	Loss of love and affection	Rs.40,000/-	**Rs.1,20,000/- (Rs.40,000/- * 3)**
4.	Transport Expenses	Rs.10,000/-	Rs.10,000/-
5.	Funeral Expenses	Rs.10,000/-	**Rs.15,000/-**
6.	Loss of Estate	-	**Rs.15,000/-**
	Total	Rs.25,57,000/-	**Rs.30,35,000/-**

15. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.25,57,000/- is hereby enhanced to **Rs.30,35,000/-** together with interest @ 7.5% per annum from the date of

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filing of claim petition till the date of deposit. 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 six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2916 of 2016 on the file of the Motor Accidents Claims Tribunal, I Additional District and Sessions Court, Cuddalore and thereafter, recover the same from the first respondent. On such deposit, the appellants and the third respondent are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any already withdrawn, as per the apportionment fixed by the Tribunal by making proper application before the Tribunal and are directed to pay necessary Court fee, if any, on the enhanced compensation. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The manner and mode of disbursement of compensation shall be as per the order of the Tribunal. There shall be no order as to costs.

30-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1.The Motor Accidents Claims Tribunal,
1st Additional District and Sessions Judge, Cuddalore.

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

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M.JOTHIRAMAN, J.

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