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C.M.A.No.2603 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : .06.2026

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.2603 of 2024

1.Dhanalakshmi

2.Minor Janani

3.Minor Harini

[Minors are represented by their
next friend/grandmother, Dhanalakshmi

4.Sundararajan

... Appellants / Petitioners

vs.

1.Malini Nandhagopal

2.IFFCO TOKIO General Insurance Co. Ltd.,
3rd Floor, Tulsi Chamber TV Samy Road,
West RS Puram, Coimbatore District.

3.Suresh

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Award dated 01.02.2024 passed in M.C.O.P.No.165 of 2023 on the file of the Motor Accident Claims Tribunal / Special District Court, Salem.

For Appellants : Mr.S.Ramprabhu

for Mr.R.Navaneetha Krishnan

For Respondents : R1 – No Appearance

Mr.K.Poomalai [R2]

Mr.D.Palaniswamy [R3]



C.M.A.No.2603 of 2024

WEB COPY

JUDGMENT

Not satisfied with the Award dated 01.02.2024 passed in M.C.O.P.No.165 of 2023 on the file of Special District Court (to deal with M.C.O.P.Cases), Salem, the legal heirs of the deceased Priya have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. Claim petition was filed under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.60,00,000/- to the claimants who are the dependents of the deceased Priya who died on account of the accident that occurred on 25.07.2022.

4. M.C.O.P.No.1090 of 2022 was filed by the husband and two minor daughters of the deceased Priya.



C.M.A.No.2603 of 2024

WEB COPY

5. M.C.O.P.No.165 of 2023 was filed by the grandmother, grandfather along with two minor daughters of the deceased Priya.

6. The Tribunal has recorded common evidence in both the O.Ps., and common award has been passed. In M.C.O.P.No.165 of 2023, wherein husband of the deceased Priya has been arrayed as 3rd respondent (Suresh, S/o.Pachamuthu).

7. In M.C.O.P.No.1090 of 2022, two witnesses have been examined and thirteen documents have been marked. On the side of the respondent, copy of Rough Sketch is marked as Ex.R1. In M.C.O.P.No.165 of 2023, during trial, grandfather of the deceased Priya has examined himself as PW1 and Ocular witness Tvl.Jagan was examined as PW2 and sixteen documents have been marked. Copy of Motor Vehicles Inspector's Report and copy of Rough Sketch are Exs.R1 and R2.

8. The Tribunal upon consideration of oral and documentary evidence and after hearing the arguments advanced by either side,



C.M.A.No.2603 of 2024

granted compensation of Rs.16,55,000/- with 7.5% interest per annum from the date of claim petition. The amounts awarded under various heads are given hereunder:-

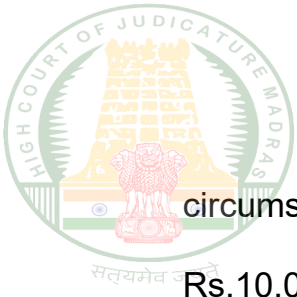
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Towards Loss of Dependency - Rs.15,30,000/-; Towards loss of Love and Affection – Rs.1,00,000/- ; Towards Funeral Expenses - Rs.25,000/- in toto Rs.16,55,000/- was granted.

9. The learned counsel for the appellants (grand parents and two minor daughters of the deceased Priya) / claimants would strenuously argue that the deceased was working as a Tailor and earning a sum of Rs.30,000/- p.m. But, the Tribunal has assumed the monthly notional income of the deceased at Rs.10,000/- inclusive of Future Prospects is grossly inadequate. He would further contend that husband of the deceased is arrayed as 3rd respondent and as he deserted his wife, the Tribunal has granted 1/5th of the Award amount to the husband of the deceased is totally incorrect and therefore, sought for enhancement of compensation.

10. Per contra, the learned counsel for the 2nd respondent/Insurance Company vehemently contended that the Tribunal having taken note of the age, avocation and income of the deceased and also other attending

4/10



C.M.A.No.2603 of 2024

circumstances has assumed the notional income of the deceased at Rs.10,000/- p.m., is reasonable and according to him, it does not call for any interference by this Court.

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11. As the claimants 1 and 4 in M.C.O.P.No.165 of 2023 did not establish the fact that their son-in-law deserted their daughter. It was held that the husband of the deceased was entitled to receive compensation for the death of his wife cannot be found fault with.

12. The manner in which the accident took place is not in dispute. It has come on record through the evidence of PW1 Sundararajan that the deceased was working as public worker in Kalparapatti Panchayat, Salem and also working as a tailor and earning not less than Rs.30,000/- p.m., at the relevant point of time. To substantiate the income details of the deceased, no concrete proof was filed and marked. However, this Court deems fit to assume the income notionally at Rs.13,000/- p.m.

13. As held in **National Insurance Co. Ltd., v. Pranay Sethi and others**, reported in **2017 (2) TN MAC 609(SC)**, standard addition is required to be added as future prospects with the notional income of the



C.M.A.No.2603 of 2024

deceased while computing the loss of dependency. As per Ex.P6-Aadhaar

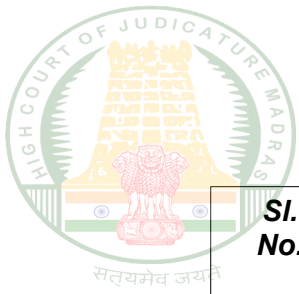
Card of the deceased, age of the deceased is taken as 27 years at the relevant point of time. As the age of the deceased is below 40 years, 40% has to be added for future prospects and the relevant multiplier to be adopted is 17m.

14. As held in **Smt.Sarla Verma and Ors., v. Delhi Transport Corporation and Another** reported in **2009 (2) TN MAC 1 (SC)**, as the claimants are totally five in number, (grandfather, grandmother, two minor daughters and her husband(R3)), in M.C.O.P.No.165 of 2023, 1/4th has to be deducted towards personal and living expenses.

15. Based on the aforestated details, for computing loss of dependency, following formula emerges :-

$$\text{Rs.13,000/-} + 40\% - 1/4 \times 12 \times 17\text{m} = \text{Rs.27,84,600/-}.$$

16. Towards loss of consortium, a sum of Rs.1,00,000/- is granted in addition to the amounts already granted by the Tribunal. Towards Loss of Estate, sum of Rs.16,000/- is granted. The amounts awarded as mentioned supra, is reworked and tabulated below:-



C.M.A.No.2603 of 2024

Sl. No.	Description-	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Towards Loss of Dependency	Rs.15,30,000/-	Rs.27,84,600/-	Enhanced
2	Towards Loss of Love and Affection and Loss of Consortium	Rs. 1,00,000/-	Rs. 2,00,000/-	Enhanced
3	Towards Funeral Expenses	Rs. 25,000/-	Rs. 25,000/-	Confirmed
4	Towards Loss of Estate	-	Rs. 16,000/-	Granted
	Total	Rs.16,55,000/-	Rs.30,25,600/-	
	Rounded of as		Rs.30,26,000/-	

17. Thus, the compensation awarded by the Tribunal is enhanced from Rs.16,55,000/- to **Rs.30,26,000/-** which would carry interest at the rate of 7.5% per annum from the date of claim petition.

18. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.16,55,000/- to **Rs.30,26,000/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., **Rs.30,26,000/-** (less the amount already deposited if any) together with

7/10



C.M.A.No.2603 of 2024

interest at the rate of 7.5% per annum from the date of claim petition

(excluding the period of default, if any) to the credit of M.C.O.P.No.165

of 2023 on the file of the Special District Court (to deal with M.C.O.P. cases), Salem within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, out of the said amounts, the appellants 1 and 4 / mother and father of the deceased Priya are entitled to receive a sum of Rs.3,00,000/- each and the Minor appellants 2 and 3 (daughters of the deceased Priya) are entitled to receive Rs.11,13,000/- each and the 3rd respondent who is the husband of the deceased Priya is entitled to receive Rs.2,00,000/- with proportionate interests and costs after adjusting the amounts, if any already withdrawn, by filing relevant application before the Tribunal.

(v) The share amount of the minor appellants 2 and 3 / Claimants 2 and 3 shall be deposited in any one of the nationalized bank till they attain majority and the 1st appellant, grandmother of the minors shall be permitted to withdraw the accrued interest from the share amount of minors once in six months from the bank for the benefit of the minor appellants.

(vi) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required.



C.M.A.No.2603 of 2024

(vii) The Tribunal below shall disburse the enhanced amount upon

production of the certified copy showing proof of payment of Court fee by
the claimants.

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.06.2026

Index : Yes/No

Speaking / Non-speaking order

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To:

1. The Motor Accident Claims Tribunal,
Special District Court, Salem.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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C.M.A.No.2603 of 2024

R.KALAIMATHI, J.,

ssn

C.M.A.No.2603 of 2024

.06.2026