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CMA No. 2857 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 2857 of 2023

1. Kanchana
 2. Varshan (minor)
 3. Varshini (minor)
 4. Valramathi
 5. Pandian
- (Minors are rep. by M.N.F. Kanchana)

..Appellants

Vs

1. M. Emaiyan
2. New India Assurance Company Ltd.
Motor III Party Claims Office,
No.232, N.S.C. Bose Road,
Bombay Mutual Building,
6th Floor, Chennai -600 001.

..Respondents

Appeal filed under Section 173 of Motor Vehicles Act, 1988 to enhance the compensation amount made in order dated 01.03.2023 in MCOP.No.2219 of 2017 passed by the Motor Accidents Claims Tribunal III - Judge, Court of Small Causes, Chennai.

For Appellants: Mr.J.Mahalingam

For Respondents: Mr.C.Johnson for R2



JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

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Seeking enhancement of compensation awarded by the Tribunal in MCOP.No.2219 of 2017, the claimants have come up with the present Civil Miscellaneous Appeal.

2. The above claim petition was filed by the appellants, legal heirs of one Srinivasan for his death in a road accident. On 21.03.2017 at about 7.00 a.m. while the deceased was riding his Motorcycle bearing Regn. No.TN-14-D-3315 at DGS Dinakaran Salai from Kannagi Nagar to Broadway, a Tanker Lorry bearing Regn. No.TN-05-AQ-2638 belonging to the first respondent herein, dashed against the Motorcycle from the backside and ran over the deceased causing his death on the spot. Contending that the accident had occurred only due to the rash and negligent driving of the Lorry belonging to the first respondent, the claim petition had been filed against the first respondent and the insurer, the second respondent.

3. Apart from filing a formal counter generally denying the liability, the second respondent/Insurance Company had not adduced any oral or documentary evidence to disprove the case of the claimants, while the first respondent owner of the Lorry remained ex parte.



4. On the side of the claimants/appellants, P.Ws.1 to 4 were examined and Exs.P1 to P18 were marked.

5. The Tribunal, by taking into consideration the oral and documentary evidence adduced on the side of the claimants/appellants, observed that the claimants/appellants had proved their case and awarded a compensation of Rs.30,14,600/- with cost and interest at the rate of 7.5% per from the date of filing of the Claim Petition i.e., 18.04.2017 till the realisation, payable by the Second Respondent.

6. Learned counsel for the appellants submitted that the deceased was a Graduate and was earning around Rs.30,000/- per month by vending fruits on the street and the same had been proved by examining P.Ws.1, 3 and 4 and also adducing documentary evidence viz., Exs.P4 and P5 to prove his educational qualification and Exs.P6 and P7 to show that he was a member of Dr.Ambedkar Merchant Small Shop Vendors Association. It was contended that the Tribunal had erred in arriving at the notional monthly income of Rs.13,000/- ignoring the oral and documentary evidence adduced, especially, when the same had not been disproved by the respondents.



7. Heard the learned counsel appearing for the second respondent on the above aspects.

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8. Having heard the learned counsel appearing for the parties and having considered the oral and documentary evidence adduced by the claimants/appellants, this court finds that there is no direct evidence to pin point the actual income earned by the deceased. The avocation of the deceased was street vending of fruits, without a standard and fixed income. The income could vary depending upon the seasonal availability of fruits. Therefore, the Tribunal could not be found fault in fixing a notional income. However, we hold that the monthly income viz., Rs.13,000/- fixed by the Tribunal is a little bit lower and that it could be fixed at Rs.15,000/-. In other aspects, this court holds that the finding of the Tribunal need to be sustained.

9. Accordingly, the compensation of **Rs.27,84,600/-** awarded by the Tribunal under the head of **loss of dependency** is **enhanced to Rs.32,13,000/-** (Rs.15,000/- + 6000 (40% towards future prospects) x 12 = Rs.2,52,000 less 1/4 towards personal expenses = Rs.1,89,000 x 17 multiplier = Rs.32,13,000/-). The enhanced amount of Rs.4,28,400/- shall be deposited by the second respondent within a period of six weeks from the date of receipt of a copy of this judgment. Such enhanced amount shall go to the share of the first appellant, wife of the deceased.



10. The Civil Miscellaneous Appeal stands allowed to the above extent.

No costs.

(C.V.K.,J.) (K.R.S.,J.)
08-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

ssk

To

1. Motor Accidents Claims Tribunal III -
Judge, Court of Small Causes, Chennai.
2. New India Assurance Company Ltd.
Motor Iii Party Claims Office,
No.232, N.S.C. Bose Road,
Bombay Mutual Building,
6th Floor, Chennai -600 001.



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**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

ssk

CMA No.2857 of 2023

08-04-2026