IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.01.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI,J.

C.M.A.No. 3804 of 2025

1. Saraswathi
2. Minor Prashath Kumar
3. Minor Gurucharanna
4. Bakkiyalakshmi …Appellants

Vs.

1. C. Suresh
2. The Branch Manager,
   HDFC ERGO GENERAL INSURANCE CO. LTD.
   1st Floor, HDFC House,
   165/166, Backbay Reclamation,
   H.T. Parekh Marg, Churchgate,
   Mumbai 400 020 …Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, against the order dated 21.09.2024 made in MCOP No.495 of 2021, on the file of the Special District Court, Motor Accidents Claims Tribunal, Krishnagiri.

For Appellants : Mr. S.P. Yuvaraj
For Respondents : Mr. S. Arun Kumar for R2
R1– Notice dispensed with

JUDGMENT

This Appeal, under Section 173 of Motor Vehicles Act, has been filed by the appellants / claimants in MCOP No.495 of 2021, on the file of the Special District Court, Motor Accidents Claims Tribunal, Krishnagiri, for enhancement of the sum awarded by the claims tribunal.

2. Shortly stated, on 21.01.2021, at about 19.15 hours, the deceased Nagarajan was proceeding as pillion rider in Hero Splendor Pro two wheeler bearing Registration No.TN-70-R-3936, belonging to the 1st respondent and insured with the 2nd respondent, along with one Venkatesan as rider on Hosur to Krishnagiri NH Road. The rider of the two wheeler drove the same in a rash and negligent manner at a high speed without observing traffic rules, due to the same, the two wheeler skid, as a result of which, the deceased Nagarajan sustained multiple fatal injuries all over his body and was taken to Government Hospital, Krishnagiri, for first aid and thereafter shifted to Narayana Irudhalaya Mazumdar Shaw Hospital, Bangalore, and in spite of intensive treatment, he died on 27.01.2021.

3. The legal representatives of the deceased preferred a claim petition for a compensation of Rs.30,00,000/- for the loss caused to them due to the death of deceased Nagarajan. The learned Tribunal accepted the claim of the claimants in part and awarded a total sum of Rs.27,03,473/- in their favour, and directed the 2nd respondent/Insurance Company to pay the award amount to the claimants with proportionate interest with costs at the first instance and then recover the same from the owner of the two wheeler / 1st respondent, since the rider of the two wheeler had no valid driving license at the time of accident. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellants / claimants are on appeal.

4. Mr.S.P. Yuvaraj, the learned counsel for the appellants / claimants submits that the deceased was an agriculturist and was earning a sum of Rs.30,000/- per month, however, the Tribunal had fixed the monthly income of the deceased notionally at Rs.12,000/- per month, which is very meagre. He would further submit that the Tribunal ought to have awarded more amount towards love and affection and loss of estate. Hence, prayed for enhancement of compensation awarded by the Tribunal.

5. On the other hand, the learned counsel appearing for the 2nd respondent / Insurance Company would submit that the learned Tribunal, upon considering the facts and circumstances of the case, has awarded just compensation, which warrants any interference by this Court.

6. Heard on both sides. Records perused.

7. The findings of the learned Tribunal regarding the involvement of the vehicle in question, the negligence of the respondent No.1, rider of the vehicle, and the deceased having sustained fatal injuries which ultimately resulted in his death, are against the respondents in the claim petition. The aforesaid findings of the learned Tribunal appear to be quite correct. The findings are based on proper appreciation of evidence on record and there is no ground to interfere with the above findings of the learned Tribunal. Hence, the findings of the learned Tribunal in this regard are affirmed.

8. Now, the question arises as to whether fixing of notitional monthly income of the deceased at Rs.12,000/- by the Tribunal is appropriate and reasonable.

9. On a perusal of the impugned order, it is seen that since no proof has been adduced by the claimants for the income of the deceased, the Tribunal had fixed the notional monthly income of the deceased at Rs.12,000/-. However, considering the year of accident, this Court deems it fit to fix the monthly income of the deceased at Rs.16,000/-. Since there are 4 dependants, 1/4 is deducted towards the personal expenses of the deceased. Considering the age of the deceased and applying the principles laid down in ***National Insurance Co. vs Pranay Sethi and others*** reported in ***2017 (2) TNMAC 601***, 40% is added towards future prospects and multiplier 15 is adopted as per the judgment reported in ***2009 (2) TN MAC 1 (SC), Sarala Varma and Others vs. Delhi Transport Corporation and Others.*** Hence, the loss of dependency is calculated as under:

Calculation

Notional Income = Rs.16,000/-

40% Future Prospects = Rs.22,400/-

After 1/4 deduction = Rs.16,800/-

Loss of dependency

= Rs.16,800/- x 12 x 15

= Rs.30,24,000/-

10. The following tabular column would show the compensation awarded by the Tribunal and by this Court.

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Modification
1.	Loss of dependency	22,68,000/-	30,24,000/-	enhanced
2.	Loss of Estate	16,500/-	16,500/-	confirmed
3.	Funeral expenses	16,500/-	16,500/-	confirmed
4.	Loss of consortium (4xRs.44,000)	1,76,000/-	1,76,000/-	confirmed
5.	Medical Bills	2,26,473/-	2,26,473/-	confirmed
	Total	27,03,473/-	34,59,473/-	Enhanced by 7,56,000/-

11. In the result,

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

ii.The quantum of compensation awarded by the Tribunal is enhanced to Rs.34,59,473/- from Rs.27,03,473/-.

iii. The appellants are directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.

iv. The 2nd respondent/Insurance company is directed to deposit a sum of Rs.34,59,473 /-(less the amount already deposited) with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order, in the first instance, to the credit of MCOP No.495 of 2021, on the file of the Special District Court, Motor Accidents Claims Tribunal, Krishnagiri, and then recover the same from the owner of the vehicle under the same cause of action.

v. On such deposit being made, the 1st and 4th appellants are at liberty to withdraw their share as per the apportionment made by the Tribunal, with costs and interest, after filing a proper petition for withdrawal.

vi. The share of the minor claimants, as apportioned by the Tribunal, with costs and interests, shall be deposited in a fixed deposit in any one of the Nationalised bank until they attain majority, and the guardian of the minor claimants is permitted to withdraw the interest amount accrued thereon once in three months.

vii.The appellants/claimants are not entitled for any interest for the default period in filing the above appeal.

06.01.2026

bga

Internet:Yes/No
Index:Yes/No
Speaking/Non-speaking order

To

1. The Special District Judge, Motor Accidents Claims Tribunal, Krishnagiri.

2. The Branch Manager,

HDFC ERGO GENERAL INSURANCE CO. LTD.
1st Floor, HDFC House,
165/166, Backbay Reclamation,
H.T. Parekh Marg, Churchgate,
Mumbai 400 020

3. The Section Officer,

VR Section,

High Court, Madras.

K.GOVINDARAJAN THILAKAVADI, J.

bga

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