

CMA No.1861 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1861 of 2024

1.S.Sumathi
W/o.Late J.Sivagnanamoothy
2.S.Rubesh (Minor)
S/o.Late J.Sivagnanamoothy
3.S.Aarthika (Minor)
S/o.Late J.Sivagnanamoothy

... Appellants

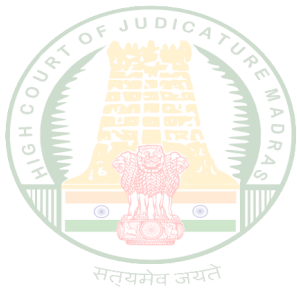
Vs.

1.Ishwar Natha Hipparkar

2.M/s.Reliance General Insurance Company Ltd.,
Legal Department, Reliance House, 6th Street,
No.6, Haddows Road, Nungambakkam,
Chennai-600 006.
Now the 2nd respondent office at:
M/s.Reliance General Insurance Company Ltd.,
Building No.(10 & 11), Chennai City Center,
No.13, 5th Floor, Dr. Radhakrishnan Salai,
Mylapore, Chennai-600 004.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the judgement and decree dated 09.06.2023 passed in M.C.O.P.No.3803 of 2021, on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.



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For Appellant : Mr.K.Ayyadurai
For R2 : Mr.P.Suresh Srinivasan
For R1 : Dispensed with

JUDGMENT

The appellant has filed this appeal to set aside the judgement and decree dated 09.06.2023 passed in M.C.O.P.No.3803 of 2021, on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

2. The brief facts of the case of the appellants/claimants are as follows: The 1st appellant is wife, 2nd and 3rd appellant are minor son and minor daughter of the deceased. On 14.08.2021 at about 8.30 p.m. while the 1st petitioner's husband was riding a motorcycle bearing registration No.TN12 AA 5602 towards Chennai, opposite to old Aalmathi Kasim Mohammed Garden near Vengayamandi, Tiruvallur District, a lorry bearing registration No.MH 46BM 1025 which came from the same direction driven in a rash and negligent manner rammed from behind the motorcycle, due to the impact the rider was thrown out from the motorcycle, he sustained sever injuries on his vital parts of body and died on the spot instantly. At the time of accident, the deceased was aged



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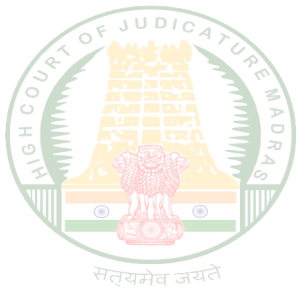
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43 years. He was a Sanitary Worker (MSW), Institute of Mental Health & Hospital, Kilpauk, Chennai earning Rs.33,184/- per month. The 1st respondent is owner and the 2nd respondent is insurer of the lorry. Both are jointly and severally liable to pay compensation to the appellants / petitioners.

3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.31,83,333/- as compensation, directing the 1st and 2nd respondent to pay the said amount to the appellants along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimant) have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.K.Ayyadurai, learned counsel appearing for the appellants, and Mr.P.Suresh Srinivasan, learned counsel appearing for the 2nd respondent.



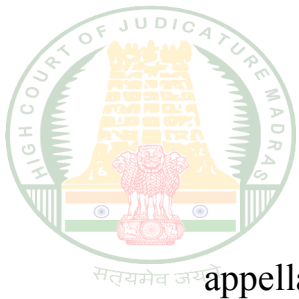
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6. Challenging the award passed by the Tribunal with regard to the fixation of the income of the deceased, the learned counsel for the appellant submits that the deceased was employed as a Sanitary Worker under the Tamil Nadu Institute of Mental Health & Hospital, Chennai. The last salary of the deceased, before he met with the accident, was Rs.34,120/- per month. To substantiate this, he produced the pay bill marked as Exhibit P14. Without considering the said gross salary, the Tribunal has fixed the income at only Rs. 13,757/-, which is meagre and improper. Hence, he prays for modification of the income of the deceased, relying on Ex.P14 - pay slip.

7. The learned counsel for the 2nd respondent submits that, after necessary deductions and considering the income statement for the year 2021, the Tribunal has rightly fixed the income based on Exhibits P12 and P13. According to him, the Tribunal correctly determined the monthly income at Rs. 13,000/- after all deductions, including income tax, and therefore, it need not be interfered.

8. By relying on the ratio laid down by the learned counsel for the



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appellants, in 2017-01-TN MAC 652, Oriental Insurance Co. Ltd., Vs. S.Venkateswari and others, Division Bench of this Court, it is held that

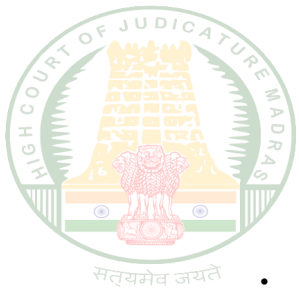
“Loss of Income - Determination - Deceased aged 55 years, employed as a Reader in Commerce Department of a Private College drawing Gross Salary of Rs.64,881 p.m. and net Salary at Rs.52,465 p.m - Gross Salary to be taken into consideration and not net salary - deducting 20% towards Income tax from Gross Salary, Income taken as Rs.51,905 p.m. - Deducting 1/3rd towards personal expenses, monthly contrinution to family fixed at Rs.34,603/- - Multiplier of 11 applicable as per ratio in Sarla Verma (SC) - Split Multiplier method cannot be made applicble - SC in Puttamma followed - Accordingly, Loss of Income arrived at Rs.45,67,596 (Rs.34,603 x 12 x 11) as against Rs.37,16,592/- awarded by Tribunal considering Gross Salary of deceased - Consideration of Net Salary not proper.”

After 20% deduction towards income tax from the gross salary, the income of the deceased can be taken into consideration.

9. Considering that, as per the last pay slip (Exhibit P14), the deceased was receiving Rs. 34,110/- as his last salary, by deducting 20% towards income tax, the balance income comes to around Rs. 27,200/- (Rs.34,110 - 6822 = 27,288/-). Therefore, the income of the deceased is fixed at Rs. 27,200/-, adding 30% towards future prospects.

Calculation:

- Notional Income: Rs. 27,200/-



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- 30% Future Prospects: Rs. 27,200 + 8,160 = Rs. 35,360/-
- After 1/3 Deduction: Rs. 35,360 - 11787 = Rs. 23,573/-

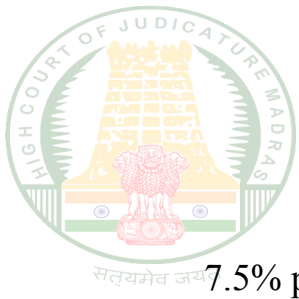
Loss of Dependency: Rs. 23,573 × 12 × 14 = Rs. 39,60,264/-

10. Additionally, the amount awarded by the Tribunal under the heads of Loss of Consortium, Loss of Estate and Loss of Funeral Expenses are also enhanced to Rs.1,32,000/- (Rs.44,000 x 3 = 1,32,000), Rs.16,500/- and Rs.16,500/- respectively.

11. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:

<i>Sl. No</i>	<i>Heads</i>	<i>Amount Awarded by Tribunal</i>	<i>Amount Awarded by High Court</i>
1.	Loss of Dependency	Rs. 30,33,333	Rs. 39,60,264
2.	Loss of Consortium	Rs. 1,20,000	Rs. 1,32,000
3.	Loss of Estate	Rs. 15,000	Rs. 16,500
4.	Funeral Expenses	Rs. 15,000	Rs. 16,500
	Total	Rs. 31,83,333	Rs. 41,25,264

Thus, the compensation awarded by the Tribunal is enhanced from Rs.31,83,333/- to Rs.41,25,264/-, which shall carry interest at the rate of



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7.5% per annum.

12. In the result:

i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

ii. The compensation awarded by the Tribunal is enhanced from Rs.31,83,333/- to Rs.41,25,264 /-.

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

iv. The 1st and 2nd respondents are directed to deposit the enhanced compensation amount, i.e., Rs.41,25,264/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P.No.3803 of 2021, on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai, within a



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period of six weeks from the date of receipt or uploading of a copy of this
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order.

v. On such deposit being made, the appellants/claimants are at liberty to withdraw the same as per the apportionment made by the Tribunal, after following due process of law.

vi. The appellants/claimants shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

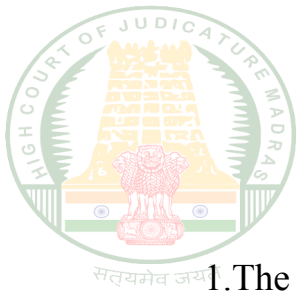
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Index:Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no

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Court of Small Causes, Chennai.

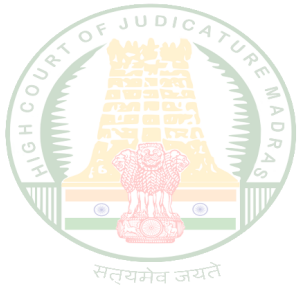
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Now the 2nd respondent office at:

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3.The Section Officer, V.R. Section,
High Court of Madras.

T.V.THAMILSELVI, J.



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