

**(2013) 06 MAD CK 0113**  
**In the Madras High Court**  
**Case No : C.M.A. (MD) No. 147 of 2007**

Rathinam and Uthiramani

APPELLANT

Vs

S. Anand and National Insurance Co. Ltd.

RESPONDENT

---

**Date of Decision :** 07-06-2013

**Acts Referred:**

**Citation :** (2013) 06 MAD CK 0113

**Hon'ble Judges :** R. Karupiah, J

**Bench :** Single Bench

**Advocate :** R. Raghunathan, for the Appellant; Uma Ramanathan for Respondent-2, for the Respondent

---

## Judgement

R. Karupiah, J.—This Civil Miscellaneous Appeal is filed for enhancement of compensation as against the Award and Decree, dated

08.09.2004 made in M.C.O.P. No. 46 of 2003 on the file of the Motor Accident Claims Tribunal (Sub Court) Kulithalai. The appellants/claimants

have filed a claim petition in M.C.O.P. No. 46 of 2003, claiming compensation of Rs. 10,00,000/- for the death of one Gnanavel and in the claim

petition it is stated that on 09.08.2005, at about 4.00 p.m., in Karur to Trichy Main Road at Lalapettai near Gandhi Silai, the first respondent bus,

bearing Reg. No. TN-47-J-3519 drove the vehicle by the driver in a rash and negligent manner from West to East and dashed against the

deceased Gnanavel, who was on the extreme left side of the road. As a result of which, the deceased sustained grievous injuries and died on the

spot and the accident was occurred only due to rash and negligent act of the driver of the above said bus. The first respondent is the owner of the

vehicle and the 2nd respondent is the insurer of the vehicle and they are liable to pay the compensation. It is further stated in the claim petition that

the deceased was 21 years old and he was doing the job of selling plantain fruits and water packets in the Lalapettai Bus stop and earned Rs.

150/- per day i.e., Rs. 4500/- per month. The claimants are parents of the deceased. The deceased was a bachelor at the time of accident and

therefore, they claimed a sum of Rs. 10,00,000/-, as compensation, from the respondents.

2. The first respondent, who is the owner of the vehicle, remained ex-parte before the Tribunal.

3. The 2nd respondent Insurance Company filed a counter in which it is stated that the claimant should prove the alleged accident and further

stated that the accident was occurred only due to negligent act of the deceased. Further it is stated that the claimants should prove the age, income,

avocation of the deceased and the amount of compensation claimed is also excessive.

4. Before the Tribunal, on the side of the claimants examined two witnesses as P.Ws. 1 and 2 and also marked 7 documents as Exs. P1 to P7. On

the side of the 2nd respondent has not examined any witnesses or not marked any documents.

5. Considering the above said oral and documentary evidence, the Tribunal has held that the accident was occurred only due to rash and negligent

act of the first respondent vehicle driver. The Tribunal has fixed the age of the deceased as 21 and it has also fixed the monthly income of the

deceased as Rs. 1200/- and deducted 1/3 towards the personal and living expenses of the deceased and considering the age of the deceased, the

Tribunal has taken "17" as multiplier and awarded a sum of Rs. 1,63,200/- for loss of income. Apart from the above said amount, the Tribunal has

awarded a sum of Rs. 2000/- towards funeral expenses; Rs. 1000/- towards transportation of dead body; Rs. 2500/- towards loss of love and

affection and totally the Tribunal has awarded a sum of Rs. 1,68,700/- as compensation.

6. Aggrieved over the above said award passed by the Tribunal, the claimants have filed this Civil Miscellaneous Appeal for enhancement of

compensation. The respondents have not filed any appeal as against the award passed by the Tribunal.

7. Admittedly, the age fixed by the Tribunal as 21 is not disputed by both sides and also the claimants proved the age by oral evidence of P.W. 1

and also adducing documentary evidence viz., Exs. P1, FIR and P2, Postmortem Certificate. Therefore, the Tribunal has correctly fixed the age of

the deceased as 21 years. The Tribunal has fixed the income of the deceased as Rs. 1200/- per month. The learned counsel appearing for the

claimants mainly contended that the deceased was doing the job of selling plantain fruits and water packets in the Lalapettai Bus stop and earned

Rs. 4500/- per month.

8. The learned counsel appearing for the respondent Insurance Company submitted that the accident had occurred in the year 2003. The claimants

have not produced any documentary evidence to prove the avocation and income of the deceased and therefore, the Tribunal has correctly fixed

the monthly income of the deceased as Rs. 1200/- per month.

9. A perusal of oral and documentary evidence of P.W. 1 clearly shows that he was doing vegetables business in the bus stop. Considering the age

of the deceased, period of accident and other relevant factors, this Court is of the view that the monthly income fixed by the Tribunal, as Rs.

1200/-, is meagre amount and therefore. it has to be enhanced to Rs. 3000/- per month. With regard to deduction for personal and living expenses

of the deceased, the Tribunal has deducted 1/3, since the claimants are parents. Considering the age and period of accident and family

circumstances, this Court is of the view that the Tribunal has correctly deducted 1/3rd amount towards personal and living expenses of the

deceased and no interference needs in the above said deduction. The Tribunal has taken 17 as multiplier. As per the settled principles laid down in

Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, the correct multiplier is only 15. Therefore, the multiplier is to be

fixed as "15" instead of "17". From the above said discussion, the total loss of income is calculated as  $\text{Rs. } 3000 \times 12 \times 15 \times \frac{1}{3} = \text{Rs. } 3,60,000/-$ .

The Tribunal has awarded a sum of Rs. 2000/- towards funeral expenses; Rs. 2500/- towards loss of love and affection and Rs. 1000/- towards

transportation of dead body. The above said compensation is reasonable amount and therefore, no needs to interfere in the above said findings.

10. The learned counsel appearing for the claimants submitted that the Tribunal has awarded only Rs. 2500/- towards loss of love and affection to

both the claimants and it is a meagre amount. Considering the age of the

deceased, age of the claimants and other family circumstances, this Court is of the view that the above said award amount has to be enhanced as Rs. 10,000/- to each claimants, totally Rs. 20,000/- towards love and affection.

11. From the above said discussion, the compensation awarded by the Tribunal is enhanced from Rs. 1,68,700 to Rs. 3,83,000/-. Considering the period of accident, and prevailing rate of interest at the time of accident, the Tribunal has correctly awarded the rate of interest as 9% per annum and no interference needs. In the result, the Civil Miscellaneous Appeal is partly allowed and the award and decree passed by the Tribunal is modified and the amount awarded by the Tribunal is enhanced from Rs. 1,68,700/- to Rs. 3,83,000/- with interest at the rate of 9% per annum from the date of filing the claim petition till the date of realization, with proportionate costs. No costs.