



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 1768 of 2024

Subbulakshmi
W/o.Pandiyaraj, No.125A,
Perumal East Car Street,
Tirunelveli Junction, Tirunelveli – 627 001.

..Appellant(s)

Vs

1. Shanmugam
S/o.Krishnasamy, No.41/41 M.Uppa Thottam,
Avinashi Road, Annur, Sri Ganesh DS,
Coimbatore - 641 006.
2. Subramani
S/o.Chinna Chettiar, No.4/79, Kumarapuram,
Mettupalayam, Coimbatore - 641 301.
3. M/s.Reliance General Insurance Company
Limited,
2nd Floor No.43-B, Sri Abhirami Tower,
Cowley Brown Road, RS Puram,
Coimbatore - 641 002.
4. Pandiyaraj
S/o.Meriyayappan, No.125A,
Perumal East Car Street, Tirunelveli Junction,
Tirunelveli - 627 001.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to modify the decree and judgment dated 10-07-2023 passed in MCOP.NO.1037/2020 on the file of the Motor Accidents Claims Tribunal/IV Additional District Court at Coimbatore.



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For Appellant(s):

Mr.K.Myilsamy

For Respondent(s):

R1 & R2 – Exparte

Mr.P.Suresh Srinivasan For R3

R4 – Given up

JUDGMENT

This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, IV Additional District Judge, Coimbatore made in M.C.O.P.No.1037 of 2020, dated 10.07.2023, wherein the claimant is seeking for enhancement of compensation.

2. The claimant is the mother of the deceased Maharaja. The case of the claimant is that the deceased was riding a two-wheeler on 06.11.2020 and his friend was the pillion rider. They were travelling on Kathimaickenpalayam road and at about 3.30 p.m., the offending vehicle, which was a Mahindra pickup van, came from the opposite direction and it was driven by the first respondent in a rash and negligent manner, as a result of which, the vehicle dashed against the two-wheeler and the deceased fell down and sustained a head injury and he succumbed to the injuries on the same day. An FIR came to be registered in Crime No.1863 of 2020 against the first respondent. It is under these circumstances, the claim petition came to be filed before the Tribunal.

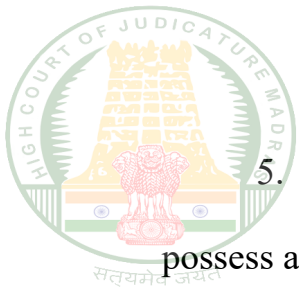


3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to the conclusion that the deceased had contributed to the accident and accordingly fixed 85% negligence on the driver of the offending vehicle and 15% was fixed as contributory negligence against the deceased.

4. The Tribunal having rendered the above finding, proceeded to fix the total compensation at Rs.12,59,020/- under the following heads:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Monthly Income + Future Prospects (Rs.10,500/- + Rs.4,200/-)	Rs.14,700/-
2.	Deduction of 1/2 for personal expenses (Rs.14,700/- Rs.7,350/-)	Rs.7,350/-
3.	Annual Income (Rs.7,530/- x 12)	Rs.88,200/-
4.	Loss of Dependency after applying multiplier '16' (Rs.88,200/- x 16)	Rs.14,11,200/-
5.	Funeral Expenses	Rs.15,000/-
6.	Loss of Estate	Rs.15,000/-
7.	Loss of consortium	Rs.40,000/-
	Total	Rs.14,81,200/-
	Less 15% contributory negligence @ Rs.2,22,180/-	Rs.12,59,020/-

The above compensation amount was directed to be paid along with interest at the rate of 7.5% per annum.



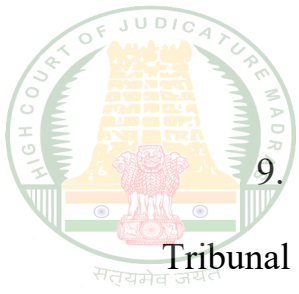
5. The Tribunal found that the driver of the offending vehicle did not possess a valid driving licence and hence ordered “pay and recovery”.

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6. Heard the learned counsel for the appellant and the learned counsel for the third respondent – Insurance Company.

7. This Court carefully considered the submissions made on either side and the materials available on record. This Court also carefully went through the award passed by the Tribunal.

8. The main ground that was urged by the learned counsel for the appellant is that the Tribunal had only fixed a sum of Rs.10,500/- as monthly income of the deceased and calculated the loss of income. The learned counsel further submitted that the Tribunal had applied ‘16’ multiplier instead of ‘18’ multiplier in a case where the deceased was aged about 19 years. The further ground that was taken is that, the Tribunal ought not to have fixed contributory negligence against the deceased and the same also requires interference by this Court.



9. Insofar as the issue of contributory negligence is concerned, the Tribunal had taken into account the evidence of R.W.2, who stated that the pillion rider on the two-wheeler driven by the deceased was attempting to get down from the two-wheeler while it was moving, and as a result, the deceased lost his balance and dashed on the front side of the Mahindra pickup van. The Tribunal also took into consideration the fact that the deceased did not possess a valid driving licence and was also not wearing a helmet. Accordingly, the Tribunal fixed contributory negligence at 15%.

10. In the considered view of this Court, even if the deceased did not possess a valid driving licence, and was not wearing a helmet, that by itself cannot be a reason for attributing contributory negligence. However, this Court has to necessarily take into account the evidence of R.W.2, who was examined by the Tribunal. The evidence was to the effect that the pillion rider was attempting to get down from the two-wheeler while it was in motion, and as a result, the deceased lost his balance. Hence, this Court has to necessarily fix some percentage towards contributory negligence. Accordingly, this Court is inclined to fix the percentage of contributory negligence at 10%.

11. Coming to the issue of loss of income, it is seen that the Tribunal had fixed the notional monthly income at Rs.10,500/-. The accident had taken place in the year 2020, and the employer was examined as P.W.3, through whom the



relevant documents were marked. According to the claimant, the deceased was earning a sum of Rs.20,000/-. The Tribunal, while considering this issue found that except for the *ipsi dixit* of P.W.3, there was no material to substantiate the monthly income of the deceased. In the considered view of this Court, the sum of Rs.10,500/- fixed by the Tribunal is on the lower side. Even in the absence of income proof, the monthly income fixed by the Tribunal cannot be sustained. Considering the materials available before this Court, and the fact that the accident had taken place during the year 2020, this Court is inclined to fix the monthly income at Rs.18,000/-.

12. The deceased was aged about 18 years at the time of the accident, and the Tribunal ought to have applied a multiplier of '18'. Instead a multiplier of '16' has been adopted, which also requires the interference of this Court.

13. In the light of the above discussion, the compensation under the head of loss of dependency is calculated as follows:

Monthly Income	:	Rs.18,000/-	
Future Prospects @ 40%	:	Rs.7,200/-	= Rs.25,200/-
Deduction 1/2 towards personal expenses	:	Rs.12,600/-	
(Rs.25,200/- (-) Rs.12,600/-)			
Annual Income	:	Rs.1,51,200/- (Rs.12,600/- x 12)	
Multiplier	:	'18'	
Loss of dependency	:	Rs. 27,21,600/- (Rs.1,51,200/- x 18)	



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14. The compensation that has been granted under other heads are reasonable and it does not require the interference of this Court.

15. In the light of the above discussion, the award passed by the Tribunal under various heads are modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of Dependency	Rs.14,11,200/-	Rs.27,21,600/-
2.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
3.	Loss of Estate	Rs.15,000/-	Rs.15,000/-
4.	Loss of Consortium	Rs.40,000/-	Rs.40,000/-
	Total	Rs.14,81,200/-	Rs.27,91,600/-
	(less) 15% contributory negligence (Rs.2,22,180/-)	Rs.12,59,020/-	---
	(less) 10% contributory negligence (Rs.2,79,160/-)	---	Rs.25,12,440/-

16. The compensation awarded by the Tribunal at Rs.12,59,020/- is enhanced to Rs.25,12,440/-. The third respondent - Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together 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 (4) weeks from the date of receipt of this judgment and on such deposit, the claimant is entitled to



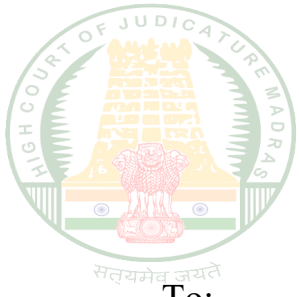
withdraw the same on due application. Insofar as the enhanced compensation of Rs.12,53,420/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 49 days as was ordered by this Court in C.M.P.No.5221 of 2024 in C.M.A.Sr.No.17469 of 2024 dated 13.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

17. In the result, the Civil Miscellaneous Appeal is allowed. No costs.

08-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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1. The IV Additional District Judge,
Motor Accident Claims Tribunal,
Coimbatore.

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



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N.ANAND VENKATESH, J.

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