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CMA No. 2708 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-08-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 2708 of 2026

1. Valliyamma

2. Peruma

3. Perumal

4. Palani

..Appellant(s)

Vs

1. Sarathkumar

2. The Manager
MAGMA HDI General Insurance Company
Ltd, Navin's Presidium,
3rd Floor, N.M.Road,
New No.17/19, Old No.103, 'B' Block,
3A, Nelson Manickam Road,
Chennai – 600 029.

..Respondent(s)

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to enhance the compensation amount and fix the entire liability on 2nd respondent made in the order dated 25.09.2024 made in MCOP No.460 of 2022 on the file of the MACT Tribunal, Special District Court, Krishnagiri by allowing this Civil Miscellaneous Appeal.

For Appellant(s):

Mr.S.P.Yuaraj

For Respondent(s):

Mrs. R. Sree Vidhya
R1 – set exparte



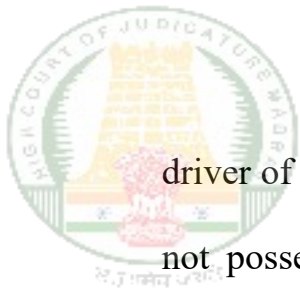
JUDGMENT

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The claimant has preferred the appeal seeking enhancement of compensation awarded in MCOP.No.460 of 2022 dated 25.09.2025 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri. The claimants are the wife and children of the deceased one Raman.

2. According to the claimants, on 03.03.2022, at about 10.45hrs, the deceased was proceeding to his house in Yamaha YBR two wheeler bearing Reg.No.TN-24-AB-4052 on Kunnathur to Railway Station Road. When he was proceeding near Mulakadai next to Muthagoundanur on Kunnathur to Railway Station Road, a Ashok Leyland Dost Vehicle bearing Reg.No.TN-11-AL-9922 (belonging to the 1st respondent and insured with the 2nd respondent), driven by its driver, came in the opposite direction, in a rash and negligent manner and suddenly dashed on the deceased two wheeler and had caused the accident. Due to the accident, the deceased sustained head injury and various fatal injuries all over the body and died on the spot. According to the claimants, the deceased was doing agriculture and cattle breeding and earned a sum of Rs.50,000/- per month at the time of accident.

3. The Insurance Company/second respondent therein has filed a counter statement, wherein, it has denied all the allegations levelled in the petition. The



driver of the Ashok Leyland Dost Vehicle bearing Reg.No.TN-11-AL-9922, did not possess valid driving license at the time of the accident and hence, the second respondent is not liable to pay compensation. The driver of Ashok Leyland Dost Vehicle drove the vehicle cautiously but, the deceased drove the two wheeler in a rash and negligent manner and lost his control. On seeing the same, the driver of the Ashok Leyland Dost Vehicle applied break to avert the accident, but, unfortunately, dashed against the deceased two wheeler. Therefore, the accident occurred only due to the negligent act of the deceased.

4.On the side of the claimant, the first claimant/Valliyamma was examined as PW1, one Sivakumar, who is an eye witness to the accident, was examined as PW2 and Exts.P1 to P.21 were marked. On the side of the respondents, no witness was examined and no document was marked.

5.on appreciation of evidence adduced on either side, the learned Tribunal found that due to the rash and negligent driving of the first respondent driver, the accident had occurred and further held that as per Ext.P6, Motor Vehicle Inspector report, at the time of the accident, the deceased drove the two wheeler without RC, DL & Insurance. Therefore, the Tribunal fixed 20% contributory negligence on the part of the deceased. The Tribunal, as per Ext.P2, death certificate, fixed the age of the deceased as 66 at the time of the accident. In the absence of proof of monthly income, the Tribunal has fixed the notional



monthly income of the deceased as Rs.9,000/- and adopted multiplier “5” as per the judgment of the Hon’ble Supreme Court of India in the case of ***Sarla Varma and others vs. Delhi Transport Corporation and another*** and deducted 1/4th towards personal and living expenses of the deceased and awarded the following compensation:

S.No.	Heads	Amount
1	Loss of Dependency	Rs.4,05,000/-
2.	Loss of Estate	Rs.16,500/-
3	Funeral Expenses	Rs.16,500/-
4	Loss of Consortium	Rs.1,76,000/-
	Total	Rs.6,14,000/-

Aggrieved over the same, the appellants have preferred an appeal, seeking enhancement of compensation.

6.The learned counsel appearing for the appellants/claimants would submit that the accident had taken place in the year 2022, however, the learned Tribunal fixed the notional income of the deceased as Rs.9,000/- per month, which is very meagre and the same has to be enhanced. The learned Tribunal has wrongly fixed 20% of contributory negligence on the side of the deceased, on the ground that the deceased did not possess RC, DL & Insurance at the time of the accident. There is no cogent evidence on record to establish any act of



contributory negligence on the part of the deceased. To strengthen his contention, he relied upon the Judgement of the Hon'ble Supreme Court in

Dinesh Kumar Vs. National Insurance Company Limited and Ors.[2018 (1)

SCC 750] to show that mere non-possession of driving licence alone may not lead to the accident and the contributory negligence cannot be fixed on the part of the deceased. The learned counsel would further submit that the age of the deceased at the time of the accident was 58 years. However, the learned Tribunal wrongly fixed the age of the deceased as 66 years based on the death certificate and awarded the compensation.

7.*Per contra*, the learned counsel appearing for the second respondent/ Insurance Company would submit that at the time of the accident, the deceased drove the motor cycle without RC, DL and Insurance. Under such circumstances, the Tribunal rightly fixed the contributory negligence on the part of the deceased as 20%. The claimants have contended that the deceased was doing agriculture and cattle breeding at the time of the accident and was earning a sum of Rs.50,000/- per month. They have not placed any proof of document to prove the income of the deceased. In the absence of proof of income, the Tribunal has rightly fixed the notional monthly income of the deceased as Rs.9,000/-, which is proper. Further, by considering the death certificate in Ext.P.2, the Tribunal has fixed the age of the deceased, at the time of the accident, as 66 years.



8.This Court considered the rival submissions made on either side and perused the materials available on record.

9.There is no dispute with regard to the manner of accident occurred in the case on hand. According to the appellants, mere non production of RC, DL and Insurance alone will not fasten contributory negligence on the part of the deceased. In order to prove the contributory negligence, the Insurance Company has not chosen to examine any witness and also not produced any documents. The driver of the first respondent lorry was not summoned and examined as a witness. In the absence of cogent or admissible evidence on record, to establish any act of contributory negligence on the part of the deceased, fixing 20 % contributory negligence is not proper and the same is liable to be interfered, as per the ratio laid down by the Hon'ble Apex Court in the case of Dinesh Kumar cited supra. Accordingly, the findings of the learned Tribunal fixing 20% contributory negligence on the part of the deceased is set aside.

10. As per Ext.P2, Death Certificate, the age of the deceased was shown as 66 and therefore, the Tribunal fixed the age of the deceased as 66. This Court is of the view that as per Ext.P2, the Tribunal has rightly fixed the age of the victim as 66.



11. With regard to the proof of income of the deceased, though the claimants have contended that at the time of the accident, the deceased was doing agriculture and cattle breeding and earned a sum of Rs.50,000/- per month, they have not placed any proof to that effect. In the absence of proof and considering the fact that the accident occurred in the year 2022, this Court fixes the notional monthly income of the deceased as Rs.20,000/- per month. Accordingly, the compensation under Loss of Income would be Rs.9,00,000/- $[(Rs.20,000/- * 12 * 5 = Rs.12,00,000/- * 1/4 = Rs.3,00,000/-) (Rs.12,00,000/- Rs.3,00,000)]$.

12. The compensation awarded under the other heads, namely, ‘ loss of estate, loss of consortium and funeral expenses’ appears to be just and proper. Accordingly, the compensation awarded by the Tribunal is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Loss of Dependency	Rs.4,05,000/-	Rs.9,00,000/-
2.	Loss of Estate	Rs.16,500/-	Rs.16,500/-
3.	Funeral expenses	Rs.16,500/-	Rs.16,500/-
4.	Loss of Consortium	Rs.1,76,000/-	Rs.1,76,000/-
	Total	Rs.6,14,000/-	Rs.11,09,000/-



13. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.6,14,000/- is hereby enhanced to Rs.11,09,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.460 of 2022 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri. On such deposit, the appellants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn, by filing proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The manner and mode of disbursement of compensation shall be as per the order of the Tribunal. There shall be no order as to costs.

19-08-2026

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

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To

1. Motor Accident Claims Tribunal,
Special District Court, Krishnagiri.

2. The Section Officer,
V.R. Section, High Court,
Chennai.



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M.JOTHIRAMAN, J.

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