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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-08-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 2220 of 2024

AND

CMA No. 2221 of 2024

1. Minor Logasowmiya
2. Minor Thejashree
(Minor appellants represented by their
Guardian/NF/Grandmother Chinnammal)
All are residing at No.7/114, Aalampalayam,
Thekkalur, Avinashi, Tiruppur District.

..Appellant(s)

Vs

1. Jaishankar
S/o.Subramani
No.32, Padmavathipuram, Avinashi Road,
Tiruppur-641602.
2. New India Assurance Company Ltd.,
No.47, Kumaran Shopping Complex, Tiruppur.

..Respondent(s)

CMA No. 2221 of 2024

1. Chinnammal
W/o.Subban
2. Subban
S/o.Kittan
3. Minor Logasowmiya
4. Minor Thejashree
(Minor appellants represented by their
Guardian/NF/Grandmother Chinnammal)
All are residing at No.7/114,



Aalampalayam, Thekkalur,
Avinashi, Tiruppur District.

..Appellant(s)

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Vs

1. Jaishankar
S/o.Subramani
No.32, Padmavathipuram, Avinashi Road,
Tiruppur-641602.
2. New India Assurance Company Ltd.,
No.47, Kumaran Shopping Complex,
Tiruppur.

..Respondent(s)

PRAYER in CMA No.2220/2024: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to set aside the award passed against the 1st Respondent/Insured dated 28-04-2023 made in M.C.O.P.No.1810 of 2018, on the file of the Exclusive Motor Accident Claims Tribunal at Tiruppur.

PRAYER in CMA No.2221/202: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to set aside the award dated 28-04-2023 made in M.C.O.P.No.1811 of 2018, on the file of the Exclusive Motor Accidents Claims Tribunal at Tiruppur.

For Appellant(s): Mr.Ma.P.Thangavel in both appeals

For Respondent(s): R1 - No Such Address

Mr. R. Neethi Perumal For R2
(in both appeals)



COMMON JUDGMENT

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These appeals have been filed against the common award passed by The Presiding Officer, Exclusive Motor Accident Claims Tribunal, Tiruppur in M.C.O.P.Nos.1810 of 2018 and 1811 of 2018, wherein the claimants are seeking for enhancement of compensation.

2. The appellants in C.M.A.No.2220 of 2024 are the minor children of the deceased. The appellants in C.M.A.No.2221 of 2024 are the parents and minor children of the deceased.

3. The case of the claimants is that both the deceased Palanisamy and Malliga are husband and wife and on 15.06.2018, they were travelling in a two-wheeler on the Salem – Coimbatore Bypass road, and at about 15.00 hours, opposite to the Hospital at Avinashi, the offending vehicle which was a car, was driven by the first respondent in a rash and negligent manner and it dashed on the two-wheeler, as a result of which the husband and wife sustained fatal injuries and both of them died on the spot. An FIR came to be registered against the driver of the offending vehicle in Crime No.592 of 2018. It is under these circumstances, the claim petitions came to be filed before the Tribunal in M.C.O.P.Nos.1810 of 2018 and 1811 of 2018.



4. The Insurance Company filed a counter and took a stand that the driver of the offending vehicle did not possess an effective driving licence and therefore, the Insurance Company denied their liability.

5. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle.

6. Insofar as the stand taken by the Insurance Company is concerned, the Tribunal held that there was violation of fundamental terms of the policy and therefore, the Insurance Company cannot be made liable to pay the compensation and it is only the owner of the offending vehicle who has to pay the compensation. Thus, the Insurance Company was exonerated from the liability.

7. The Tribunal fixed total compensation in M.C.O.P.No.1811 of 2020 at Rs.22,77,000/- under the following heads:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.22,68,000/-
2.	Funeral Expenses	Rs.16,500/-
3.	Loss of Estate	Rs.16,500/-

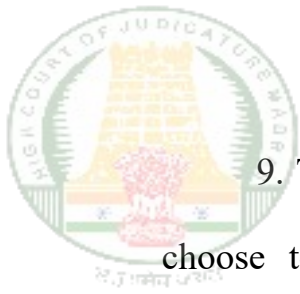


4.	For Loss of Consortium Filial consortium to the petitioners 1 & 2 Rs.44,000/- each Parental consortium to the petitioners 3 & 4 Rs.44,000/- each.	Rs.1,76,000/-
	Total Award Amount	Rs.24,77,000/-

8. Insofar as M.C.O.P.No.1810 of 2018 is concerned, the Tribunal fixed total compensation at Rs.17,33,800/- under the following heads:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.16,12,800/-
2.	Funeral Expenses	Rs.16,500/-
3.	Loss of Estate	Rs.16,500/-
4.	For Loss of Consortium parental consortium to the petitioners Rs.44,000/- each	Rs.88,000/-
	Total Award Amount	Rs.17,33,800/-

The above compensation was directed to be paid with interest at the rate of 7.5% per annum by the owner of the offending vehicle. Aggrieved by the same, the claimants have filed these appeals on the ground that the Tribunal ought to have applied the principle of 'pay and recover' and they have also sought for enhancement of compensation.



9. The first respondent remained *exparte* before the Tribunal and did not choose to contest the claim petitions. The first respondent has also not questioned the award passed by the Tribunal, wherein the first respondent was directed to pay the compensation amount along with interest to the claimants in both the claim petitions. Hence, notice to first respondent is dispensed with.

10. Heard Mr.Ma.P.Thangavel, learned counsel appearing on behalf of the appellants – claimants and Mr. R. Neethi Perumal, learned counsel appearing on behalf of the second respondent – Insurance Company in both the appeals.

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

12. First issue to be dealt with is regarding the liability of the Insurance Company to pay the compensation. The Insurance Company has taken a stand that the driver of the offending vehicle did not have an effective driving licence to drive the car. In the considered view of this Court, this issue is squarely covered by the Judgment of the Apex Court in *National Insurance Co. Ltd V. Swaran Singh and others reported in (2004) 3 SCC 297*. Hence, the Tribunal ought to have applied the pay and recover principle since the deceased in this case are the third parties.



13. The finding of the Tribunal exonerating the Insurance Company from the liability is set aside and the same is modified to the effect that the Insurance Company has to pay the compensation amount to the claimants and can recover the same from the owner of the offending vehicle.

14. Insofar as the quantum of compensation in C.M.A.No.2220 of 2024 is concerned, the Tribunal has fixed the notional monthly income of the deceased at Rs.9,000/-. The claimants in this case are the two minor children of the deceased. Considering the fact that the accident had taken place in the year 2018 and even if the deceased is taken to be a house wife, the sum of Rs.15,000/- should have been fixed as notional monthly income. Hence, this Court is inclined to fix the notional monthly income at Rs.15,000/-. Consequently, the compensation under the head of loss of income/dependency is calculated as follows:

Monthly income	: Rs.15,000/-
Add 40% towards future prospects	: Rs. 21,000/- (15,000 +6,000)
Multiplier	: '16'
Deduction towards his personal expenses	: 1/3rd
Loss of income/dependency	: Rs.26,88,000/- (21,000 x 12 x 16 x 1/3)

15. The compensation that has been fixed under other heads are just and reasonable and the same is confirmed.

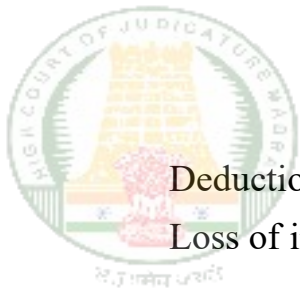


16. In view of the above, the award passed by the Tribunal in C.M.A.No.2220 of 2024 is modified as follows:

Sl. No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of income/dependency	Rs.16,12,800/-	Rs.26,88,000/-
2.	Funeral Expenses	Rs.16,500/-	Rs.16,500/-
3.	Loss of Estate	Rs.16,500/-	Rs.16,500/-
4.	For Loss of Consortium parental consortium to the petitioners Rs.44,000/- each	Rs.88,000/-	Rs.88,000/-
5.	Total Award Amount	Rs.17,33,800/-	Rs.28,09,000/-

17. Insofar as the quantum of compensation in C.M.A.No.2221 of 2024 is concerned, the Tribunal has fixed the notional monthly income at Rs.12,000/-. Considering the fact that the accident had taken place in the year 2018, and the deceased left behind his parents and two minor children, this Court is inclined to fix the notional monthly income at Rs.15,000/-. Consequently, the compensation under the head of loss of income/dependency is calculated as follows:

Monthly income	: Rs.15,000/-
Add 40% towards future prospects	: Rs.21,000/- (15,000 + 6,000)
Multiplier	: '15'



Deduction towards his personal expenses : 1/4

Loss of income/dependency : **Rs.28,35,000/-** (21,000 x 12 x 15 x 1/4)

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18. The compensation that has been fixed under other heads are just and reasonable and the same is confirmed.

19. In view of the above, the award passed by the Tribunal in C.M.A.No.2221 of 2024 is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of dependency	Rs.22,68,000/-	Rs.28,35,000/-
2.	Funeral Expenses	Rs.16,500/-	Rs.16,500/-
3.	Loss of Estate	Rs.16,500/-	Rs.16,500/-
4.	For Loss of Consortium Filial consortium to the petitioners 1 & 2 Rs.44,000/- each Parental consortium to the petitioners 3 & 4 Rs.44,000/- each.	Rs.1,76,000/-	Rs.1,76,000/-
5.	Total Award Amount	Rs.24,77,000/-	Rs.30,44,000/-

20. The compensation awarded by the Tribunal in C.M.A.No.2220 of 2024 at Rs.17,33,500/- is enhanced to Rs.28,09,000/- and in C.M.A.No.2221 of 2024 at Rs.24,77,000 is enhanced to Rs.30,44,000/-.



(i) The second respondent - Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.Nos.1810 of 2018 and 1811 of 2018, respectively, on the file of the Exclusive Motor Accident Claims Tribunal, Tiruppur, within a period of six (6) weeks from the date of receipt of this judgment. On such deposit, the claimants are entitled to withdraw the same on due application as apportioned by the Tribunal. On such deposit of the compensation amount, the Insurance Company will be entitled to recover the same from the owner of the offending vehicle.

(ii) Insofar as the enhanced compensation of Rs.10,75,200/- in C.M.A.No.2220 of 2024 is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 221 days as was ordered by this Court in C.M.P.No.9070 of 2024 in C.M.A.Sr.No.29721 of 2024 dated 01.08.2024.

(iii) Insofar as the enhanced compensation of Rs.5,67,000/- in C.M.A.No.2221 of 2024 is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 221 days as was ordered by this Court in C.M.P.No.9064 of 2024 in C.M.A.Sr.No.29722 of 2024 dated 01.08.2024.

(iv) Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by



the Tribunal with regard to the mode of payment of compensation remains unaltered. The guidelines issued by the Division Bench of this Court in C.M.A.No.2064 of 2026, dated 08.07.2026 shall be strictly complied with respect to disbursement of the compensation amount to the claimant.

11. In the result, the Civil Miscellaneous Appeals are partly allowed. No costs.

05-08-2026

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

SSI

To:

1. The Presiding Officer,
Motor Accident Claims Tribunal,
Tiruppur.

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



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CMA Nos. 2220 & 2221 of 2



N.ANAND VENKATESH J.

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**CMA No. 2220 of 2024
and
CMA No. 2221 of 2024**

05-08-2026