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CMA No. 1219 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-08-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1219 of 2025

AND CMA NO. 2002 OF 2024

1. Savitha BarariaW/o.Kank Kumar Bararia, 15,
2nd cross street, Aravindar Nagar, Azees Nagar,
Reddiyarpalayam, Puducherry 605 010.
2. Reet Bararia @ Reet BararialD/o.Kanak Kumar
Bararia, 15, 2nd cross street, Aravindar Nagar,
Azees Nagar, Reddiyarpalayam,
Puducherry 605 010.
3. Minor Jaineka BarariaD/o.Kanak Kumar
Bararia(rep by mother Savitha Bararia) 15, 2nd
Cross street, Aravindar Nagar, Azees Nagar,
Reddiyarpalayam, Puducherry 605 010.
4. Kamala Devi BarariaW/o.Binod Kumar
Bararia, No.308, Block A, 2nd Floor, Lake
Town, Police Quarter Lane, North 24, Parganas,
West Bengal 700 089.
5. Binod Kumar BaraiaS/o.Madan Chand Bararia,
No.308, Block A, 2nd Floor, Lake Town, Police
Quarter Lane, North 24, Parganas,
West Bengal 700 089.

..Appellant(s)

Vs

1. Kalairaj.VS/o.Vijaya Kumar, No.380-7, Keel
Pudukadu Observatory, Kodaikanal 624 103.
Dindugal district.
2. The Manager Magma HDI General Ins,
Co.Ltd., VB SRS Hyundai Show Room,
No.2751, Imperial Road,
Cuddalore OT 607 003.

..Respondent(s)



CMA No. 2002 of 2024

Magma Hdi General Insurance Company
Limited Old Office at VB SRS Hyundai Show
Room, No.2752, Imperial Road, Cuddalore Dt 003.
Now office at Grace Building 1st Floor No.25/3,
MC Nicholoas Road, Chennai - 031.

..Appellant(s)

Vs

1. Savitha Bararia W/o. Kanak Kumar Bararia,
Res. at No.15, 2nd Cross St, Aravindar Nagar,
Anees Nagar, Reddiarpalayam,
Puducherry – 010.
2. Reet Bararia @ Reet Bararia D/o. Kanak
Kumar Bararia, Res. at No.15, 2nd Cross St,
Aravindar Nagar, Anees Nagar,
Reddiarpalayam, Puducherry – 010.
3. Jaineka Bararia D/o. Kanak Kumar Bararia, Res.
at No.15, 2nd Cross St, Aravindar Nagar, Anees
Nagar, Reddiarpalayam,
Puducherry – 010.
4. Kamala Devi Bararia W/o. Binod Kumar
Bararia, Res. at No.15, 2nd Cross St, Aravindar
Nagar, Anees Nagar, Reddiarpalayam,
Puducherry – 010.
5. Binod Kumar Bararia S/o. Madan Chand
Bararia, Res. at No.15, 2nd Cross St, Aravindar
Nagar, Anees Nagar, Reddiarpalayam,
Puducherry – 010.
6. Kalairaj VS/o. Vijayakumar, No.380-7, Keel
Pudhukadu Observatory, Kodaikanal -103,
Dindigul Dt.

..Respondent(s)

CMA No. 1219 of 2025

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor
Vehicles Act, 1988, seeking to enhance the compensation in MCOP No.102 of



2022 (On the file of the Motor Accidents Claims Tribunal/Special District Court-I, Cuddalore).

CMA No. 2002 of 2024

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award passed as against the appellant herein who is the second respondent in the claim petition under the fair and decretal order dated 19.12.2023 in MCOP No.102 of 2022 on the file of Motor Accidents Claim Tribunal, Special District Court No.1, Cuddalore.

CMA No. 1219 of 2025

For Appellant(s): Ramya V.Rao

For Respondent(s): R1 - Na
Mr. B.Murugavel, For R2.

COMMON JUDGMENT

(Judgment of the Court was delivered by M.Jothiraman J.)

CMA No.2002 of 2024 is filed by the Insurance Company aggrieved over the quantum of compensation awarded in M.C.O.P. No.102 of 2022 dated 19.12.2023 passed by the Motor Accidents Claims Tribunal / Special District Court – I, Cuddalore. The claimant has preferred CMA.No.1219 of 2025, seeking enhancement of compensation.

2. The claimants are the wife, daughters and parents of the deceased Kanak Kumar Bararia. According to the claimants, on 30.07.2021 at about 18.00 hours, the deceased was standing with his family on the extreme portion of Kodaikanal Lake Road and was eating snacks. The 1st respondent's Bajaj Pulsar Motorcycle bearing Reg.No. TN 57 CZ 7351 came in a rash and



negligent manner and dashed against the deceased. Due to the accident, the deceased sustained grievous injuries over his body. He was taken to the Government Hospital, Kodaikanal and was declared dead. According to the claimants, the deceased was a partner in M/s.Jaishree Polymers and M/s.Chakrapani Vyapar Ltd. Pondicherry and was earning Rs.1,50,000/- per month and he was an Income Tax Assessee.

3. The appellant in CMA.No.2002 of 2024 / Insurance Company has filed a counter affidavit, wherein they have denied the coverage of insurance policy at the time of the accident, and the motor cycle was driven by its driver, without a valid driving licence to drive the vehicle at the time of accident and the 1st respondent has violated Section 3 of the Motor Vehicles Act, which is indeed a violation of the policy condition and hence, the respondent Insurance Company is not liable to indemnified.

4. On the side of the claimants, the wife of the deceased was examined as PW1. One Jothilakshmi was examined as PW2 and Exs.P1 to P20 were marked. On behalf of the respondent / Insurance Company, one Balakrishnan was examined as RW1 and one Sonal A.Metha was examined as RW2 and Exs.R1 to R8 were marked .

5. Upon appreciation of evidence adduced on either side, the Tribunal found that PW1, who is the wife of the deceased was also standing near the



deceased and she categorically deposed that the person who drove the motor cycle came in a rash and negligent manner and hit her husband. Ex.P1-FIR, which came to be registered against the person who drove the motorcycle and Ex.P8 – Final Report has been filed as against the person, who drove the motor cycle. In order to prove the case of the claimants as to the negligence on the part of the 1st respondent vehicle, they have not let in any contra evidence to that effect. The Tribunal found that as per Ex.P16 relating to Income Tax Return of the Assessment year 2019-2020 which shows that the annual income of the deceased as Rs.7,10,000/- per annum and as per Ex.P17 relating to Income Tax Return for the Assessment Year 2020-2021, which shows the annual income of the deceased as Rs.5,51,772/- and by applying the ratio laid down in *Sarla Verma and Ors. v. Delhi Transport Corporation and Ors. [2009 (2) TNMAC 1]* and *National Insurance Co., v. Pranay Sethi and Others 2017 (2) TNMAC 609* adding 25% towards future prospects, awarded compensation under various heads and deducted 1/4th of his personal expenses and awarded compensation under following heads:

Head of Compensation	Amount Awarded by the Tribunal (in Rs.)
Monthly Income of the deceased	45,981
Future Earnings /Prospects 25% (45981 x 25/100 = 11495) 45981 + 11495 = 57476	57,476
Personal Expenses of the deceased 57476 x 1/4 = 14369 = 43107)	43,107/-
Loss of Income	72,41,976



43107 x 12 x 14	
Loss of Consortium for 1 st claimant	50,000
Loss of Love and Affection (50,000 x5)	2,50,000
Funeral Expenses	15,000
Transportation Charges	15,000
Loss of Estate	25,000
Total	<u>75,96,976</u> <u>(Round off) 75,97,000</u>

Aggrieved over the same, the Insurance Company has filed CMA.No.2002 of 2024, challenging the quantum of compensation awarded by the Tribunal. Seeking enhancement of compensation, the claimants have preferred the appeal in CMA.No.1219 of 2025.

6. The learned counsel appearing for the Insurance Company / appellant in CMA.No.2002 of 2024 would submit that the learned Tribunal failed to hold that the claimants have failed to produce Income Tax Returns previous to the Assessment Year 2020-2021 which would enlighten the income of the deceased. The Tribunal, while calculating the income, particularly looking into Exs.P16 and P17 has not properly applied its mind for arriving the annual income of the deceased. The learned counsel would further submit that the Tribunal ought to have considered ITR returns pertaining to 3 Assessment Years and has to arrive the average of the total income and not based on the Gross Income. To strengthen his contentions, he has relied upon the judgment



of the Hon'ble Supreme Court in *Rashmirekha Tripathy and Another v. Branch Manager (Legal Claims), Sriram General Insurance Company Limited and Others [2026 SCC OnLine SC 1256]* to show that the average of the previous 3 years Income Tax Returns shall be taken into account.

7. *Per contra*, learned counsel appearing for the appellant in CMA.No.1219 of 2025 / claimants would submit that the Tribunal has failed to accept the Income Tax Returns for the Assessment Years 2020-2021, in which the Gross Salary was mentioned as Rs.7,10,000/-. The Tribunal ought to have considered the Salary Certificate issued by the both the companies, which was marked as Exs.P9 & P10, which correlates with the Income Tax Returns. The Tribunal failed to consider 30% towards Loss of Future Prospects and awarding 25% for the same would not be proper. The deceased was enjoying good health and was a partner in M/s.Jai Shree Polimers and M/s.Chakrapani Vijapar Pvt. Ltd., and doing his father's business in other states and earning Rs.1,50,000/- per month and he was an Income Tax Assessee. The Tribunal ought to have considered the Gross Income mentioned in the Income Tax Returns shall be taken into account and the Net Income mentioned in the Income Tax Return shall not be taken into account. To strengthen his contentions, the learned counsel for the claimants has relied upon the following judgments:

Shyamwati Sharma and Others v. Karam Singh and Others [(2010) 12



SCC 378]

National Insurance Company Ltd. V. Indira Srivastava and Others
[2008 (1) TNMAC 166 (SC)]

Manasvi Jain v. Delhi Transport Corporation [2014 (13) SCC 22]

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8. We have considered the submissions made on either side and carefully perused the available records.

9. The main grievance of the Insurance Company is with regard to calculating the income particularly Exs.P16 and P17 – Income Tax Returns have not been properly considered for arriving the annual income of the deceased.

10. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court in ***Meenakshi v. Oriental Insurance Co., Ltd. [2024 SCC OnLine SC 1872]*** wherein the Hon'ble Supreme Court has held as follows:

"9. Recently in a judgment dated 11th July 2024 in National Insurance Company Ltd., Vs. Nalini and Ors. [Petition for Special Leave to Appeal (C) No.4230/2019], this Court held that allowances under the heads of transport allowance, house rent allowance, provident fund loan, provident fund and special allowance ought to be added while considering the basic salary of the victim/deceased to arrive at the dependency factor.

10. Therefore, components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income by future prospects to determine the dependency factor. The Accident Claims Tribunal was justified in factoring these components into the salary of the deceased, before applying 50% rise by future prospects due to future prospects, while calculating the total compensation payable to the appellant."

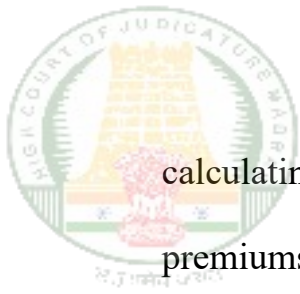


11. It is also relevant to refer the Judgment of the Hon'ble Supreme Court in ***Rashmirekha Tripathy and Another v. Branch Manager (Legal Claims), Sriram General Insurance Company Limited and Others [2026 SCC OnLine SC 1256]***, wherein the Hon'ble Apex Court held that,

“20. The date when the ITRs are filed would also become a relevant consideration, as there may be scenarios where inflated income is showcased after death/injury. In these circumstances, the surrounding factors of the business would become more relevant. However, if sufficiently supported by financial statements, such ITRs may also be taken into consideration.”

12. It is also relevant to refer the judgment of the Hon'ble Supreme Court in ***National Insurance Company Ltd. v. Indira Srivastava and Others [2008 (1) TN MAC 166 (SC)]***, wherein it has been held that the reimbursement of rent, bonus payable as part of salary, contribution to provident fund, superannuation benefits, contribution towards gratuity, insurance of medical policy for self and family and education scholarships are beneficial to family. However, the medical reimbursement would not come within purview of benefits to the family and the statutory amount of tax payable must be deducted from amount of income of the deceased.

13. In yet another judgment in ***Shyamwati Sharma and Others v. Karam Singh and Others [(2010) 12 SCC 378]***, the Hon'ble Supreme Court wherein it has been held that where annual income of deceased is in taxable range, approximate deductions should be made towards income tax / surcharge while



calculating his net income. However, deductions towards GPF, Life Insurance premiums, repayment of loans etc., shown in salary certificate should not be excluded from deceased's income.

14. By applying the ratio laid down in the above judgments, in the case on hand, based on the Income Tax Returns submitted by the deceased for the 3 previous assessment years, the gross income of the deceased reveals as follows:

<u>Assessment year 2019 - 2020</u>		
S.No.	Particulars	Amount
1	Income of the deceased (without any deduction)	3,94,500
2	Income after Income Tax deduction u/s 16(ia)	40,000
3	Interest income	21,883
Gross Income of the salary		3,76,383/-

<u>Assessment year 2020 - 2021</u>		
S.No.	Particulars	Amount
1	Income of the deceased (without any deduction)	7,10,000
2	Income after Income Tax deduction u/s 16(ia)	50,000
3	Interest income	747
Gross Income of the salary		6,60,747/-

<u>Assessment year 2021 - 2022</u>		
S.No.	Particulars	Amount
1	Income of the deceased (without any deduction)	5,51,772
2	Income after Income Tax deduction u/s 16(ia)	50,000
3	Interest income	10,015
Gross Income of the salary		5,11,787/-



The gross income of the last 3 assessment years reads as under:

S.No.	Assessment Year	Gross Income
1	2019 - 2020	3,76,383
2	2020 - 2021	6,60,747
3	2021 - 2022	5,11,787
Average income		5,16,305/-

15. The Average Gross Income of the deceased for the previous 3 Assessment years from 2019-2022 comes to Rs.5,16,305/- (excluding all the benefits except tax deducted above).

16. The learned counsel appearing for the claimants would contend that the Tribunal ought to have granted compensation towards Loss of Future Prospects and the income of the deceased has gradually raised and awarded 20% towards Future Prospects would not be proper. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court in ***National Insurance Co. Ltd., v. Pranay Sethi [AIR 2017 SC 5157]***, wherein it was held as follows:

“61...(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”

By applying the ratio laid down in ***Pranay Sethi case (cited supra)*** in the case on hand, the deceased was aged about 45 years at the time of accident and therefore, the future prospects is fixed at 25% and not 30%. In view of the above, there is no reason warrants to enhance the Loss of Future Prospects awarded by the Tribunal.



17. We have also considered the compensation awarded by the Tribunal in respect of other heads, which does not warrants interference.

18. Accordingly, the compensation awarded by this Court is modified and the same is tabulated as below:

Head of Compensation	Amount Awarded by the Tribunal (in Rs.)
Monthly Income of the deceased	43,025
Future Earnings /Prospects 25% (43025 x 25/100 = 10756) 43025 + 10756 = 53781	53,781
Personal Expenses of the deceased 53781 x $\frac{1}{4}$ = 13445 53781-13445	40,336
Loss of Income 40336 x 12 x 14	67,76,448
Loss of Consortium for 1 st claimant	50,000
Loss of Love and Affection (50,000 x5)	2,50,000
Funeral Expenses	15,000
Transportation Charges	15,000
Loss of Estate	25,000
Total	71,31,448 (Rounded off) 71,31,500

19. In the light of the above, ***CMA.No.1219 of 2025 filed by the claimant, stands partly allowed*** and the award dated 19.12.2023 made in MCOP.No.102 of 2022 on the file of the MACT, Special District Court No.1, Cuddalore, is modified to the effect that the claimants are entitled to a compensation of Rs.71, 31,500/-. The manner, mode and ratio of disbursement



of compensation shall be as per the order of the Tribunal. ***CMA.No.2002 of 2024 filed by the Insurance Company stands dismissed.*** No costs.

Consequently, connected miscellaneous petitions are closed.

(N.S.K.,J.) (M.J.R.,J.)
05-08-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

Motor Accidents Claim Tribunal,

Special District Court No.1, Cuddalore.



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CMA No. 1219 of 2



**N.SATHISH KUMAR J.
AND
M.JOTHIRAMAN J.**

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**CMA No. 1219 of 2025
AND
CMA NO. 2002 OF 2024**

05-08-2026



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CMA No. 1219 of 2



CMA.No.1219 of 2025
and CMA.No.2002 of 2024

N.SATHISH KUMAR, J.
AND
M.JOTHIRAMAN, J.

(Order of the Court was made by M.Jothiraman, J.)

This matter is posted today under the caption “For Being Mentioned” at the instance of the learned counsel appearing for the claimants.

2. Heard M/s.Ramya V.Rao, learned counsel appearing for the claimants / appellants in CMA No.1219 of 2025 / respondents 1 to 5 in CMA.No.2002 of 2024 and Mr.B.Murugavel, learned counsel appearing for the appellant Insurance Company in CMA.No.2002 of 2004 / 2nd respondent in CMA.No.1219 of 2025.

3. The learned counsel appearing for the claimants / appellants in CMA.No.1219 of 2025 submits that the 4th appellant in CMA.No.1219 of 2025 / 4th claimant, namely Kamala Devi Bararia, who is the mother of the deceased Kanak Kumar Bararia, died on 20.06.2026 and though the death certificate as well as the memo filed to record the death of the 4th claimant was filed on 05.08.2026 at the time of arguments, the same was not incorporated / recorded in the final Judgment passed by this Court dated 05.08.2026 and therefore,



prays for appropriate orders. Further, there were some inadvertent typographical errors in the result portion of the civil miscellaneous appeals.

4. In the light of the above submission made by the learned counsel appearing for the claimants, para 19 of the judgment dated 05.08.2026 shall be read as under:

“19. In the light of the above, ***CMA.No.2002 of 2024 filed by the Insurance Company, stands partly allowed*** and the award dated 19.12.2023 made in MCOP.No.102 of 2022 on the file of the MACT, Special District Court No.1, Cuddalore, is modified to the effect that the claimants are entitled to a compensation of Rs.71,31,500/ along with interest @ 7.5% from the date of claim petition till the date of deposit. The manner, mode and ratio of disbursement of compensation shall be as per the order of the Tribunal. The memo dated 24.07.2026 filed by the counsel for the claimants with regard to the death of the 4th appellant Kamala Devi Bararia is recorded. Since the legal heirs of the deceased 4th appellant are already on record, out of the share of compensation of the 4th appellant / deceased 4th claimant, a sum of Rs.2,40,300/- shall be paid to the 5th claimant / husband of the deceased 4th claimant and her remaining share shall be apportioned equally between the claimants 2 and 3, who are the daughters of the deceased Kanak Kumar Bararia. ***CMA.No.1219 of 2025 filed by the claimants stands dismissed.*** No costs. Consequently, connected miscellaneous petitions are closed.”

(N.S.K.,J.) (M.J.R.,J.)
12.08-2026

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CMA No. 1219 of 2



**N.SATHISH KUMAR J.
AND
M.JOTHIRAMAN J.**

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**CMA No. 1219 of 2025
AND
CMA NO. 2002 OF 2024**

12-08-2026