



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

WEB COPY

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.2100 of 2026

1. R.Maheswari
W/o.Late Ramasamy
2. R.Dhanasekaran, Minor
S/o.Late Ramasamy
3. R.Abishek, Minor
S/o.Late Ramasamy,
[Minor petitioners 2 &3 are
represented by the 1st petitioner herein]

..Appellants

Vs

1. S.Selvaraj
S/o.Samuthira Pandian
2. The Bajaj Allianz General Insurance Co. Ltd.,
No.497 and 498, 5th Floor,
Isanakattima Building,
P.H.Road, Arumbakkam,
Chennai - 600 106.

..Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in MCOP No. 380 of 2021 dated 18.10.2024, on the file of Motor Accident Claims Tribunal, (Chief Judge, Court of Small Causes, Chennai).

For Appellants : Mr.K.Varadhakamaraj

For Respondents : Mr.Michael Visuvasam
for Mr.R.V.Sivaraj [R2]



JUDGMENT

WEB COPY

This appeal has been filed challenging the award passed in MCOP No. 380 of 2021 dated 18.10.2024, on the file of Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

2. The first claimant is the wife and claimants 2 and 3 are the children and fourth claimant was the mother of the deceased Ramasamy. The deceased Ramasamy was walking at Tharapuram to Thiruppur Road on 07.10.2020 and at about 20.30 hours near Birli Nidswear Company, the offending vehicle, a two wheeler, was ridden in a rash and negligent manner and dashed against the deceased as a result of which the deceased sustained grievous injuries and he was admitted in the Government Rajaji Hospital, Madurai, but, despite treatment he died on 17.10.2020. A First Information Report came to be registered in Crime No.1399 of 2020. 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 a conclusion that the deceased was attempting to cross a road where there was no zebra/pedestrian crossing and he jumped over the center median, as a result of which the accident had taken place. Accordingly, the Tribunal fixed 50%



negligence on the rider of the two wheeler and 50% contributory negligence on the deceased. Having rendered the above finding, the Tribunal fixed total compensation at Rs.25,22,500/- under the following heads:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income/dependency	23,62,500/-
2.	Loss of consortium	1,20,000/-
3.	Loss of estate	15,000/-
4.	Funeral expenses	15,000/-
5.	Transportation charges including damages to personal belongings	10,000/-
	Total	25,22,500/-

Out of the above compensation, the Tribunal deducted 50% towards contributory negligence and fixed compensation at Rs.12,61,250/- rounded off to Rs.12,61,000/-, which was directed to be paid by the second respondent/ insurance company along with interest at the rate of 7.5% p.a. Aggrieved by the same, the present appeal has been filed by the claimants seeking enhancement of compensation.

4. Heard learned counsel for appellants and learned counsel for second respondent/insurance company.

5. The main ground urged by learned counsel for appellants is that the Tribunal went wrong in completely disregarding the eye witness account of



PW-2 and assumed that the deceased jumped over a center median. Learned counsel submitted that the deceased was walking on the left hand side corner and he was hit by the two wheeler and there was absolutely no negligence on the part of the deceased. Learned counsel further contended that 50% contributory negligence attributed by the Tribunal is liable to be interfered with by this Court. Learned counsel further submitted that the accident is of the year 2020 and the Tribunal fixed the notional monthly income at Rs.15,000/- which is on the lower side.

6. *Per contra*, learned counsel appearing on behalf of second respondent/insurance company submitted that rough sketch [Ex.R3] clearly shows that there was no pedestrian crossing and what was available was only a center median and the deceased had jumped over the center median and had invited the accident and therefore, the same was considered by the Tribunal while fixing the contributory negligence at 50%. Learned counsel further submitted that there was proof for income of the deceased and therefore, the Tribunal proceeded to fix the notional monthly income at Rs.15,000/- and the compensation awarded by the Tribunal is just and fair and it does not require the interference of this Court.

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



8. In the case in hand, the Tribunal has appreciated the evidence of PW-2 and RW-1 and also the documents marked, more particularly, rough sketch [Ex.R3]. The Tribunal came to a conclusion that there is no indication of any zebra/pedestrian crossing available and what was available was only the center median and the deceased had jumped over the center median and invited the accident. This finding rendered by the Tribunal cannot be held to be perverse. This Court also had the advantage of looking into rough sketch [Ex.R3]. Hence, there was certainly contributory negligence on the part of the deceased.

9. The next question is as to whether the Tribunal was right in fixing 50% contributory negligence on the deceased. Considering the manner in which the accident had taken place and considering the speed at which the two wheeler was ridden, this Court is inclined to reduce contributory negligence to 40% on the deceased and increase the negligence on the side of the offending vehicle to 60%.

10. The next issue is regarding the compensation fixed under the head 'loss of income'. The accident is of the year 2020 and the Tribunal had fixed the notional monthly income at Rs.15,000/-, which is on the lower side. This Court is inclined to fix Rs.18,500/- as the notional monthly income. In the light of the above discussion, the compensation under the head 'loss of income/



dependency' is calculated as follows:

Monthly Income	:	Rs. 18,500/-
Add: 25% future prospects	:	Rs. 4,625/-

		Rs. 23,125/-
Less: Personal expenses (1/4)	:	Rs. 5,781/-

		Rs. 17,344/-
		x 12

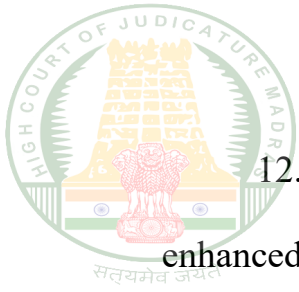
Annual income	:	Rs. 2,08,128/-
Multiplier	:	x 14

Loss of income	:	Rs.29,13,792/-

The compensation fixed under the other heads is reasonable and does not require the interference of this Court.

11. In the light of the above discussion, this Court modifies the compensation in the following manner:

<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 income/dependency	23,62,500/-	29,13,792/-
2.	Loss of consortium	1,20,000/-	1,20,000/-
3.	Loss of estate	15,000/-	15,000/-
4.	Funeral expenses	15,000/-	15,000/-
5.	Transportation charges including damages to personal belongings	10,000/-	10,000/-
	Total	25,22,500/-	30,73,792/-
	Less: contributory negligence	12,61,250/- (50%)	12,29,517/- (40%)
	Compensation payable	12,61,250/-	18,44,275/-



12. The compensation awarded by the Tribunal at Rs.12,61,250/- is enhanced to Rs.18,44,275/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. On such deposit, the appellants/claimants are entitled to withdraw their respective share on due application. Insofar as the enhanced compensation of Rs.5,83,025/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 371 days as was ordered by this Court in C.M.P.No.10491 of 2026 in C.M.A.Sr.No.63127 of 2026 dated 18.06.2026. 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.

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

09-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

gm

To

The Chief Judge,

Motor Accident Claims Tribunal,

Court of Small Causes, Chennai.



WEB COPY

CMA No.2100 of 2



N.ANAND VENKATESH, J.

gm

Civil Miscellaneous Appeal No.2100 of 2026

09-07-2026