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CMA.No.1966 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.1966 of 2022
& CMP.No.14979 of 2022

The Oriental Insurance Co.Ltd.,
Suba Govindam Building,
Imperial Road, Cuddalore

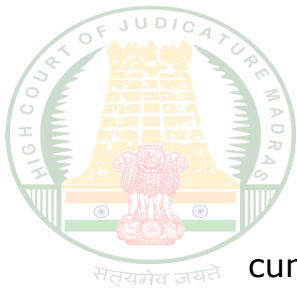
...Appellant

Vs

1. Indirani, W/o Late Nagaraj
@ Nagarajan, 157, Thzhanthondi,
Thirumullaivasal, Sirkali District.
2. N.Bernatsha @ Pernasha
S/o Late Nagaraj @ Nagarajan, 157,
Thzhanthondi, Thirumullaivasal,
Sirkali District
3. S.Prakash, S/o Shanmugam,
No.110/83, North Car Street
Sirkali Taluk, Nagapattinam District.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the decree and judgment dated 28.4.2022 passed in MCOP.
No.1001 of 2015 passed by the Motor Accident Claims Tribunal-



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cum-Principal District Court, Cuddalore.

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For Appellant: Mr.S.Senthilkumar for
Mr.G.Ponnambalathiyagarajan

For Respondents: Ms.Ramya V.Rao for R1 & R2
R3 – Notice sent returned with
the endorsement 'Left'

JUDGMENT

This appeal has been filed by the appellant - Insurance Company challenging the award dated 28.4.2022 made in MCOP. No.1001of 2015 on the file of the Motor Accidents Claims Tribunal (Principal District Court) Cuddalore (for short, the Tribunal below).

2. Heard the learned counsel for the appellant – Insurance Company and the learned counsel appearing for respondents 1 and 2 – claimants.

3. The first respondent – first claimant is the wife; and the second respondent – second claimant is the son of one Mr.Nagaraj (a) Nagarajan (since deceased).



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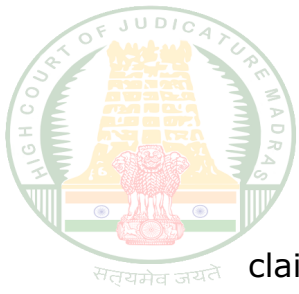
4. The facts leading to filing of this appeal are as follows:

(i) On 14.1.2007, the said Mr.Nagaraj (a) Nagarajan was riding a bicycle at North Car Street, Sirkali and at about 4.10 PM, the offending vehicle that was belonging to the third respondent was driven in a rash and negligent manner and dashed on the bicycle, as a result of which, the said Mr.Nagaraj (a) Nagarajan was thrown out of the bicycle and sustained the following injuries:

*"Crush injury right upper limb;
amputation right hand above elbow;
D12 spine burst fracture;
wedge fracture with neumological deficit
rib fracture 3, 4 & 5 with haemo pneumo
thorax."*

(ii) The said Mr.Nagaraj (a) Nagarajan took treatment as an inpatient from 16.1.2007 to 18.2.2007 at Government Hospital, Chennai. A first information report came to be registered in Crime No.25 of 2007 on the file of Sirkali Police Station against the driver of the offending vehicle.

(iii) The case of respondents 1 and 2 – claimants was that as a result of the injuries sustained, the said Mr.Nagaraj (a) Nagarajan was taking continuous treatment and he ultimately succumbed to the injuries on 29.12.2008. It was under those circumstances, the



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claim petition came to be filed before the Tribunal below.

(iv) Before the Tribunal below, the appellant – Insurance Company filed a counter and took a stand that there was absolutely no nexus between the injuries sustained and the cause of death of the deceased, that therefore, the claim petition could not be maintained and that the accident occurred only due to the negligence on the part of the deceased.

(v) The Tribunal below, on considering the facts and circumstances of the case and on appreciation of the evidence, came to the 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, that the grievous injuries sustained by the said Mr.Nagaraj (a) Nagarajan resulted in his death and that the claim petition was maintainable.

(vi) Having rendered the above finding, the Tribunal below fixed the total compensation amount at Rs.9,91,560/-, which was rounded off to Rs.9,92,000/- under the following heads:

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	<i>Loss of income</i> <i>(Rs.10,245/- X 12 X 13 X 11)</i>	<i>Rs.9,01,560/-</i>
2	<i>Loss of love and affection</i>	<i>Rs. 20,000/-</i>
3	<i>Funeral expenses</i>	<i>Rs. 15,000/-</i>



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4	<i>Loss of estate</i>	<i>Rs. 15,000/-</i>
5	<i>Loss of consortium</i>	<i>Rs. 40,000/-</i>
	<i>Total</i>	<i>Rs.9,91,560/-</i>
	<i>Rounded off to</i>	<i>Rs.9,92,000/-</i>

(vii) The above total compensation amount was directed to be paid by the appellant – Insurance Company together with interest at the rate of 8% per annum from the date of claim petition till the date of realization. The appellant – Insurance Company was also permitted to recover the entire compensation amount from the first respondent – owner of the offending vehicle. Aggrieved by that, the appellant – Insurance Company has filed this appeal before this Court.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned award.

6. In the case in hand, the accident took place on 14.1.2007. Ex.P.2 – the discharge summary would show that the deceased had taken treatment as an inpatient from 16.1.2007 to 18.2.2007. It is also seen that the said Mr.Nagaraj (a) Nagarajan was discharged



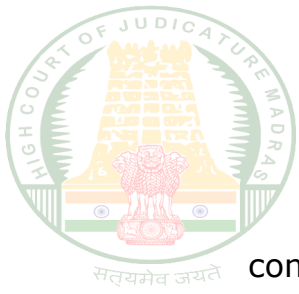
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after the infection was brought under control and after the amputation above elbow on the right upper limb was done. Ultimately, he died only on 29.12.2008.

7. Even though respondents 1 and 2 – claimants took a stand that the said Mr.Nagaraj (a) Nagarajan was continuously taking treatment till his demise, there were absolutely no materials to substantiate the stand taken by them. In between 18.2.2007 and 29.12.2008, it is not known as to whether the said Mr.Nagaraj (a) Nagarajan was either taking any further treatment or was facing further complications due to the injuries sustained. The post mortem was not even conducted. Hence, this Court is of the view that respondents 1 and 2 – claimants were not able to establish the nexus between the injuries sustained by the deceased and the real cause of death on 29.12.2008.

8. In the light of the above finding, this Court holds that the Tribunal below went wrong in dealing with the claim petition as if the case arose out of a fatal accident. The Tribunal below ought to have dealt with the claim petition as an injury case and fixed proper



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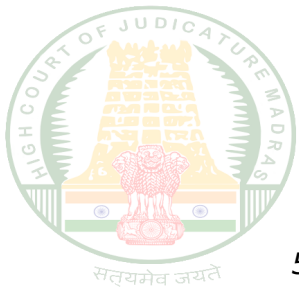
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compensation under available heads, which could have been ordered to be inherited by respondents 1 and 2 – claimants as the estate of the deceased.

9. Having rendered the above finding, this Court will now fix the compensation under various available heads, which could be inherited by respondents 1 and 2 – claimants as the estate of the deceased.

10. The injuries that were sustained by the deceased have already been extracted supra. It would clearly show that very serious injuries were sustained by the deceased and it had led to amputation above elbow on the right upper limb. In view of the same, this Court is inclined to fix the compensation under the following heads:

<i>S.No</i>	<i>Head</i>	<i>Amount awarded by the Tribunal below</i>	<i>Amount awarded by this Court in this judgment</i>
1	<i>Loss of income</i> <i>(Rs.10,245/- X 12 X 13 X 11)</i>	<i>Rs.9,01,560/-</i>	<i>Rs.1,87,089/-</i> <i>(Rs.8,909/- X 21 months)</i>
2	<i>Loss of love and affection</i>	<i>Rs. 20,000/-</i>	-
3	<i>Funeral expenses</i>	<i>Rs. 15,000/-</i>	-
4	<i>Loss of estate</i>	<i>Rs. 15,000/-</i>	-



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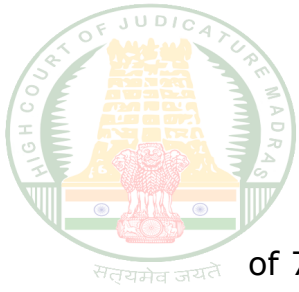


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5	<i>Loss of consortium</i>	Rs. 40,000/-	-
6	<i>Attender charges</i>	---	Rs.1,05,000/- (Rs.5,000/- X 21 months)
7	<i>Extra nourishment</i>	--	Rs. 75,000/-
8	<i>Transportation</i>	--	Rs. 75,000/-
	<i>Total</i>	Rs.9,91,560/-	Rs.4,42,089/-
	<i>Rounded off to</i>	Rs.9,92,000/-	--

11. The interest component awarded by the Tribunal below is modified to 7.5% per annum.

12. Accordingly, the civil miscellaneous appeal is partly allowed, the award dated 28.4.2022 made in MCOP.No.1001 of 2015 on the file of the Tribunal below is modified and the appellant – Insurance Company is directed to deposit the total compensation amount of Rs.4,42,089/- now awarded in this appeal **less the amount already deposited** together with accrued interest at the rate of 7.5% per annum from the date of petition till the date of realization, within four weeks from the date of receipt of a copy of this judgment. On such deposit being made, respondents 1 and 2 – claimants are permitted to withdraw the entire award amount as modified in this judgment together with accrued interest at the rate



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of 7.5% per annum. It goes without saying that the finding given by the Tribunal below with regard to pay and recovery shall stand sustained. It is needless to point out that after deposit and payment out of the total compensation amount to respondents 1 and 2 – claimants as awarded in this judgment, the appellant – Insurance Company is permitted to withdraw the balance amount. No costs. Consequently, the connected CMP is closed.

27-07-2026

To
The Motor Accidents Claims Tribunal
(Principal District Court), Cuddalore.

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N.ANAND VENKATESH,J

RS

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