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C.M.A.No.2554 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2026

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE M. JOTHIRAMAN

C.M.A.No.2554 of 2026

and

C.M.P.No.19557 of 2026

Reliance General Insurance Company Ltd.,
No.6, Reliance House, Haddows Road,
Nungambakkam, Chennai – 600 006.

... Appellant

Vs.

1.Fathima
2.Bairose
3.Reshma – Minor
4.Sagurvan
5.Satheesh

*[3rd respondent is minor represented by
mother and next friend 1st respondent]*

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal (Chief Court of Small Causes), Chennai, in M.C.O.P.No.5148 of 2019, dated 12.01.2024.



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C.M.A.No.2554 of 2026

For Appellant : Mrs.R.Sree Vidhya
For R1 to R4 : Mr.F.Jerry Chellaraja
for Mr.V.Velu

J U D G M E N T

(Judgment was delivered by **N. SATHISH KUMAR, J.**)

Challenging the judgment and decree of the Motor Accident Claims Tribunal (Chief Court of Small Causes), Chennai, (hereinafter referred to as “the Tribunal” for brevity) in M.C.O.P.No.5148 of 2019 dated 12.01.2024, awarding a compensation of Rs.30,56,000/- to the respondents 1 to 4/claimants, the present Appeal has been filed by the insurer of the offending vehicle.

2.Brief facts of the case are as follows :

On 26.08.2019 at about 20.30 hours, when the deceased was travelling as a pillion rider in a motor cycle bearing Registration No.TN-21-AR-3453 at ECR Road, Seekankuppam near Maduvankarai, a Car bearing Registration No.TN-10-AB-0995, belonging to the 5th respondent and insured with the appellant Insurance Company, which came in the opposite



C.M.A.No.2554 of 2026

direction, being driven in a rash and negligent manner at the right side of the road, dashed against the motor cycle and due to the impact, the deceased sustained fatal injuries and died on the spot.

3.The wife, children and mother of the deceased filed a claim petition in M.C.O.P.No.5148 of 2019 before the Tribunal, contending that the deceased was 38 years old and was a Tailor by profession and earning a salary of Rs.25,000/- per month at the relevant point of time and therefore, claimed a total compensation of Rs.49,00,000/- under various heads.

4.The 5th respondent/owner of the offending vehicle remained *ex parte* before the Tribunal.

5.The appellant, who is the insurer of the offending Car, contested the case by stating that there was no valid insurance policy at the relevant point of time and the driver of the Car did not possess a valid driving licence at the time of accident. Besides, they disputed the negligence aspect and contended that the deceased was not wearing helmet while travelling in the motor cycle and therefore, contributory negligence has to be fixed on the



C.M.A.No.2554 of 2026

deceased also. Further, they also disputed the age and income of the deceased and opposed the claim.

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6.On the side of the claimants, P.W.1 and P.W.2 were examined and Exs.P1 to P12 were marked. On the side of the respondents before the Tribunal, no one was examined nor any document marked.

7.Based on the evidence and materials on record, the Tribunal, by its judgment and decree dated 12.01.2024, found that the accident was due to the rash and negligence of the driver of the Car bearing Registration No.TN-10-AB-0995 and fixed the liability on the appellant Insurance Company and awarded a total compensation of Rs.30,56,000/- under the following heads along with interest at the rate of 7.5% p.a. from the date of claim petition :

<i>Heads</i>	<i>Amount awarded by the Tribunal</i>
Loss of income/dependency	Rs.28,56,000/-
Loss of Estate	Rs.15,000/-
Loss of consortium (Rs.40,000/- each x 4)	Rs.1,60,000/-
Funeral Expenses	Rs.15,000/-



C.M.A.No.2554 of 2026

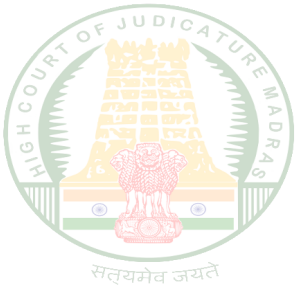
Transport Charges	Rs.10,000/-
Total Compensation	Rs.30,56,000/-

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8.Challenging the Award of the Tribunal, the insurer of the offending Car, has filed the above Appeal.

9.The only contention raised by the learned counsel for the appellant Insurance Company is that the deceased was not wearing helmet at the time of accident and therefore, contributory negligence has to be fixed on him. As far as quantum is concerned, it is her contention that the deceased was a Tailor by profession and therefore, the notional income of Rs.17,000/- per month fixed by the Tribunal, is on the higher side.

10.Whereas, the learned counsel appearing for the respondents 1 to 4/claimants would submit that the appellant has not proved the contributory negligence by adducing evidence and the Tribunal, in the light of the decisions of the Hon'ble Supreme Court, has awarded a just and reasonable compensation, which does not require any interference.



C.M.A.No.2554 of 2026

WEB COPY

11. Heard the learned counsel on either side and perused the entire materials available on record.

12. The points that arise for consideration in this Appeal are as follows:

- i. *Whether mere non-wearing of helmet would lead to the inference that there was a contributory negligence ?*
- ii. *Whether the quantum fixed by the Tribunal is just and proper ?*

Point No.(i) :

13. Admittedly, the deceased was seated as a pillion rider. The Tribunal, on appreciation of the evidence, has found that the driver of the Car which came in the opposite direction, drove the Car in a rash and negligent manner and dashed against the two wheeler in which the deceased was travelling and caused the accident.

14. Merely because the deceased, who was seated as a pillion rider, did not wear helmet, contributory negligence cannot be inferred. Once a plea of contributory negligence is taken by the appellant Insurance Company, it is



for them to establish the same by adducing evidence. In the present case, the appellant Insurance Company has not even adduced any evidence on their side. As a matter of fact, mere non-wearing of helmet, though amounts to violation of statutory provisions, will not lead to an inference of contributory negligence. In this regard, the Division Bench of this Court in ***The Managing Director, Tamil Nadu State Transport Corporation, Dindigul v. Mariyammal and others*** reported in ***CDJ 2026 MHC 2540***, has held as follows :

“9.Contention regarding Non-Wearing of Helmet: The principal contention advanced by the learned counsel for the appellant is that the deceased was not wearing a helmet at the time of the accident and, having sustained fatal head injuries, a proportionate deduction ought to be made towards contributory negligence on account of violation of the statutory provisions under the Motor Vehicles Act. The learned Trial Judge only fixed 7% contributory negligence on the deceased. Hence, the learned counsel for the appellant sought to enhance the percentage of contributory negligence. This contention, in the considered view of this Court, is legally untenable in the facts and circumstances of the present case. It is a well-settled principle that mere violation of statutory provisions, such as non-wearing of a helmet, does not ipso facto confer a right upon the tortfeasor to plead contributory negligence, unless it



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C.M.A.No.2554 of 2026

is established that such violation had a direct nexus with the occurrence of the accident. It is also pertinent to note that the object of wearing a helmet is primarily a safety measure intended to minimize or prevent the severity of head injuries. It does not, in any manner, prevent the happening of the accident. Therefore, the non wearing of a helmet cannot be construed as a causative factor for the accident itself. Though in certain earlier decisions, this Court have, in peculiar factual circumstances, applied a limited deduction towards contributory negligence on account of non-wearing of a helmet, in view of subsequent development of law by the Hon'ble Supreme Court that mere violation provision of the Motor Vehicles Act, 1988, without anything more, cannot lead to a conclusion of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the serious impact upon the victim. There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the hit upon the victim, and it has been clarified that such an approach cannot be adopted universally. The determinative factor remains whether there was any negligence in the manner of driving on the part of the deceased contributing to the accident. In the absence of any evidence to establish negligent riding on the part of the deceased, the question of apportioning contributory



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C.M.A.No.2554 of 2026

negligence on the sole ground of non-wearing of a helmet does not stand to reason. Even in cases where fatal head injuries are sustained, the same cannot automatically lead to an inference of contributory negligence. Therefore, the Tribunal has taken a balanced view in fixing 7% contributory negligence on the deceased. In the absence of any material to show that the deceased contributed to the cause of the accident, enhancement of the percentage of contributory negligence, as sought by the appellant, is not warranted.”

(emphasis supplied)

15.In view of the above judgment, we are of the view that, in the absence of any evidence to establish the nexus between the violation and the cause of the accident, contributory negligence on the part of the deceased cannot be inferred as a matter of fact. Therefore, ***Point No.(i) is answered against the appellant.***

Point No.(ii) :

16.As far as quantum is concerned, the Tribunal, taking note of the fact that the deceased was a Tailor by profession, has fixed the notional income of the deceased as Rs.17,000/- per month. Even an ordinary labourer would earn a minimum wages of more than Rs.18,000/- per month.



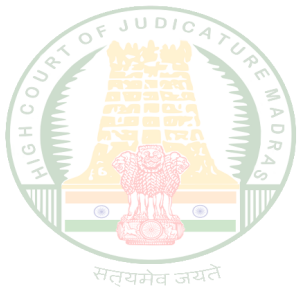
C.M.A.No.2554 of 2026

Whereas, the Tribunal, taking note of the profession of the deceased, has fixed only a sum of Rs.17,000/- as notional monthly income, which, in our view, is justified.

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17.Further, by adding 25% as future prospects @ Rs.4,250/- as per the decision of the Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi and others* reported in **2017 (2) TNMAC 609**, the Tribunal has calculated the monthly income as Rs.21,250/-. After deduction of 1/5 towards personal expenses, the Tribunal has taken the multiplier as 14 as per the decision of the Hon'ble Supreme Court in *Sarala Verma v. Delhi Transport Corporation* reported in **AIR 2009 SC 3104** and has arrived at the loss of income/dependency at Rs.28,56,000/-, which, in our opinion, does not warrant any interference.

18.Further, the Tribunal has awarded a sum of Rs.15,000/- towards loss of estate; Rs.40,000/- to each of the four claimants towards loss of consortium; Rs.15,000/- towards funeral expenses; and Rs.10,000/- towards transport charges, which, in our view, are just and reasonable.



C.M.A.No.2554 of 2026

WEB COPY

19. Therefore, this Court is not inclined to interfere with the quantum of compensation awarded by the Tribunal. Hence, ***Point No.(ii) is answered as against the appellant.***

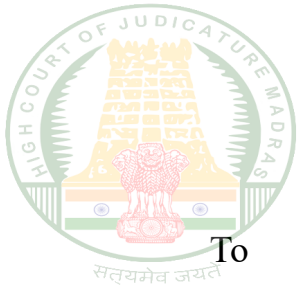
20. In fine, we do not find any infirmity in the impugned Award passed by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is dismissed as devoid of merits, confirming the impugned Award of the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

21. The appellant Insurance Company is directed to deposit the entire award amount, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of the order.

(N.S.K., J.) (M.J.R., J.)
23.07.2026

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

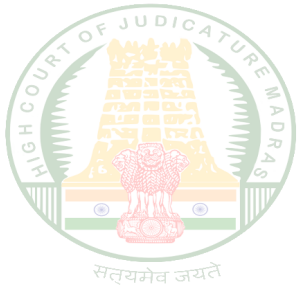


C.M.A.No.2554 of 2026

To

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- 1.The Motor Accident Claims Tribunal
(Chief Court of Small Causes),
Chennai.
- 2.The Reliance General Insurance Company Ltd.,
No.6, Reliance House, Haddows Road,
Nungambakkam, Chennai – 600 006.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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and
M. JOTHIRAMAN, J.

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