

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 2884 of 2024

1. Sartharj
W/o.Shaikh Dastagir
2. Minor Gulab Mohammed
S/o.Shaikh Dastagir
(Minor rep. by NF/Mother Sartharj)
3. Minor.Piyare Bee
D/o.Shaikh Dastagir
(Minor rep. by NF/Mother Sartharj)
4. Mohammed Kasim
S/o.Husain Sahab Shaikh
5. M.Hasha Bee
W/o.Mohammed Kasin,
All the appellants are residing at D.No.1/24B,
Kalikovil, VTC Vuruvinyanspalli Village and
Post, Krishnagiri Taluk and District-635120.

..Appellant(s)

Vs

1. Rayapati Ramanaiah
s/o.Venkatesewarlu, D.No.10-140, Bandal
Bazar, Padaprimi(V), Thulluru Mandal, Guntur
District, Thulluru, Andhra Pradesh-522237.
2. The Divisional Manager
The New India Assurance Co. Ltd.,,
Divisional Office, D.No.4-5-55, Bolla's
Mansion, 3rd Floor, Koretipadu, Beside
Donbosco School, Towards Ring Road, Guntur,
Andhra Pradesh-522007.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount and fix the entire liability on the 2nd respondent made in Judgment and decree dated 31-10-2022 made in MCOP.No.1032 of 2020 on the file of the Motor Accident Claims Tribunal and Special District Judge, Krishnagiri by allowing this Civil Miscellaneous Appeal.

For Appellant(s): Mr.S.P.Yuaraj

For Respondent(s): R1 – Signed – No appearance
M/s. R.Rathnathara, For R2

JUDGMENT

This appeal has been filed against the award passed by the District Judge, Motor Accidents Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri made in M.C.O.P.No.1032 of 2020, dated 31.10.2022, wherein the claimants are also seeking for enhancement of compensation.

2. The first claimant is the wife, the second and third claimants are the minor children and the fourth and fifth claimants are the parents of the deceased Shaikh Dastagir. The case of the claimants is that on 31.05.2020, the deceased was seated on his two-wheeler at Kuppam – Krishnagiri Road, opposite to his house, and at about 18.45 hours, the offending vehicle which was a Tarus lorry, was driven in a rash and negligent manner and it dashed against the two-

wheeler of the deceased, as a result of which, the deceased sustained grievous injuries and died on the spot. An FIR was also came to be registered in Crime No.348 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 considering the 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 offending vehicle.

4. The Tribunal having rendered the above finding, proceeded to fix the total compensation at Rs.21,43,000/- 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.18,90,000/-
2.	Loss of Estate	Rs.16,500/-
3.	Funeral Expenses	Rs.16,500/-
4.	Loss of Consortium (P1 to P5) Rs.44,000/- x 5 = Rs.2,20,000/-	Rs.2,20,000/-
	Total	Rs.21,43,000/-

5. The Tribunal found that the deceased did not possess a valid driving licence and hence deducted 10% towards contributory negligence and directed the second respondent to pay the total compensation of Rs.19,28,700/- together with interest at the rate of 7.5% per annum. Aggrieved over the same, the

present appeal has been filed by the claimants.

6. Heard the learned counsel for the appellant and the learned counsel for the second respondent – Insurance Company.

7. The main ground that was urged by the learned counsel for the appellants is that the accident is of the year 2020, whereas the Tribunal has fixed the notional monthly income at Rs.12,000/- which is on the lower side. The learned counsel also questioned the Tribunal attributing 10% contributory negligence on the deceased on the ground that he did not possess a valid driving licence.

8. In the case in hand, the deceased died at the age of 41 years and left behind his wife, two minor children and old parents. The accident had taken place in the year 2020. Hence, a sum of Rs.12,000/- fixed as notional income by the Tribunal is certainly on the lower side. The same is enhanced to a sum of Rs.18,500/-. Accordingly, the compensation under the head of loss of dependency is calculated as follows:

Monthly Income : **Rs.18,500/-**
 Add Future Prospects @ 25% : **Rs.4,625/- = Rs.23,125/-**
 Annual Income : **Rs.2,77,500/-** (Rs.23,125/- x 12)
 Multiplier : **‘14’**
 Deduction towards Personal Expenses : **1/4**
 Loss of Dependency : **Rs.29,13,750/-** (Rs.2,77,500/- x 14 x 1/4)

9. Insofar as the contributory negligence fixed by the Tribunal is concerned, the same is not sustainable since the mere non possession of a valid driving licence by itself will not result in contributory negligence. The law and issue was settled by the Apex Court in ***Dinesh Kumar.J. @ Dinesh.J vs. National Insurance Company Ltd.***, reported in ***2018 (1) SCC 750***. Hence, the finding of the Tribunal deducting 10% towards contributory negligence on the deceased from the total compensation is also liable to be set aside.

10. The compensation that has been granted under other heads are reasonable and it does not require the interference of this Court.

11. In the light of the above discussion, the compensation granted by the Tribunal under various heads are modified as follows:

<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 Dependency	Rs.18,90,000/-	Rs.29,13,750/-
2.	Funeral Expenses	Rs.16,500/-	Rs.16,500/-
3.	Loss of Estate	Rs.16,500/-	Rs.16,500/-
4.	Loss of Consortium	Rs.2,20,000/-	Rs.2,20,000/-
	Total	Rs.21,43,000/-	Rs.31,66,750/-

12. The compensation awarded by the Tribunal at Rs.21,43,000/- is enhanced to Rs.31,66,750/-. The Second respondent - Insurance Company is

directed to deposit the enhanced compensation, less the amount already deposited, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four (6) weeks from the date of receipt of this judgment and on such deposit, the claimants are entitled to withdraw the same on due application. Insofar as the enhanced compensation of Rs.10,23,750/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 250 days as was ordered by this Court in C.M.P.No.26559 of 2023 in C.M.A.Sr.No.138637 of 2023 dated 04.10.2024. 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. It is made clear that the Tribunal itself has ordered for “pay and recover” and the same is sustained.

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

08-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SSI

To:

1. The District Judge,
Motor Accident Claims Tribunal,
Special District Court for Motor Accident Claims Cases,
Krishnagiri.

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

N.ANAND VENKATESH, J.

SSI

CMA No.2884 of 2024

08-07-2026