



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2026

CORAM

WEB COPY

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.3169 of 2025

A.Saroja (died)

1. A.Ariyaputhiran,
S/o.Angamuthu
2. A.Ramesh
S/o.A.Ariyapurthiran
3. A.Ayyasamy
S/o.A.Ariyapurthiran

..Appellants

Vs

1. K.P.Palani
S/o.Perianna Gounder
2. National Insurance Company Limited,
Branch No.III, Royal Towers, 185/1,
Meyanoor Road, Opposite ARRS Multiplex
Theatre, Salem – 636 004.
3. P.Sasikumar
S/o.Palanisamy

..Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment dated 6.2.2025 passed in MCOP No.59/2016 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Attur, Salem District.



WEB COPY



For Appellants : Mr.R.Nalliyappan

For Respondents : Mr.D.Bhaskaran [R2]
No appearance [R1 & R3]

JUDGMENT

This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Attur, Salem District, in M.C.O.P.No.59 of 2016 dated 06.02.2025, wherein the claimants are seeking enhancement of compensation.

2. The injured was the original claimant in this case. The injured was represented by her next friend/ husband at the time of filing the claim petition. The case of the claimant is that on 13.06.2016, the injured was walking on the left side of Basha Kadu Road and at about 10.00 a.m., when she was approaching near Venkateswara rice mill, the third respondent ridden the two wheeler in a rash and negligent manner and dashed against the injured, as a result of which, the injured suffered serious head injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal. During the pendency of the claim petition, the injured died and her husband and children were substituted in the place of the injured.



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 accident had taken place due to the rash and negligent driving on the part of the rider of the offending vehicle. Having rendered the above finding, the Tribunal proceeded to determine the compensation amount in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Medical bills	3,75,490/-
2.	Transport charges	45,670/-
	Total	4,21,160/-

The above compensation was directed to be paid along with interest at 7.5% p.a. Aggrieved by the same, the claimants have filed the present appeal before this Court seeking enhancement of compensation.

4. Heard learned counsel appearing for appellants and learned counsel appearing for second respondent insurance company. This Court also considered the materials available on record and carefully went through the award passed by the Tribunal.

5. The main ground urged on the side of appellants is that the injured had died only due to the serious head injuries sustained by her in the accident and



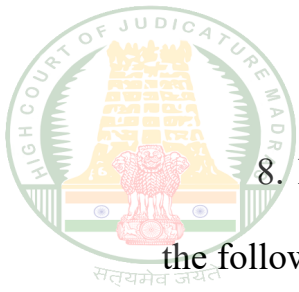
therefore, the Tribunal ought to have dealt with the claim petition as a fatal case.

To substantiate the same, the evidence of doctor [PW-2] and also various documents to establish the continuous treatment undergone by the injured, marked as Ex.P6, were relied upon.

6. *Per contra*, learned counsel for second respondent insurance company submitted that the death had taken place nearly after four years of the accident and there was absolutely no evidence before the Court to establish a nexus between the injury sustained and the cause of death. Hence, it is contended that the Tribunal has rightly fixed the compensation with respect to the expenses incurred and the same can be awarded to the legal heirs, who inherit the estate of the deceased.

7. In the case in hand, the nature of injuries sustained by the original claimant are:

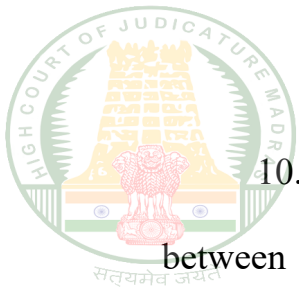
- (a) subdural bleed of maximal width 5mm in right parietal convexity;
- (b) large sized haemorrhagic contusion in right fronto-temporal lobe causing mass effect on right lateral ventricle, with mild uncal herniation and a midline shift of 11 mm to the left.



8. It is seen that on assessment of the injured by the Neuro Foundation, the following impressions were recorded :

- (a) Right fronto-temporo-parietal craniotomy status;
- (b) Gel foam with small sized bleed and surrounding edema in right fronto-temporal lobe. Minimal midline shift of 5mm to the left;
- (c) Large sized haemorrhagic contusion in right fronto-temporal lobe causing mass effect on right lateral ventricle, mild uncal herniation and a midline shift of 11mm to the left;
- (d) Subdural bleed of maximal width 5mm in right parietal convexity;
- (e) Right fronto-temporo-parietal craniotomy status;
- (f) Small sized bleed with surrounding edema in right fronto-temporal lobe and genu of corpus callosum. No significant midline shift.

9. Even in the discharge summaries [Exs.P4 and P5], it is seen that the original claimant has sustained serious brain injuries and initially was treated as inpatient from 13.06.2016 to 29.06.2016. A surgery was also performed on 13.06.2016. Right from 2016 till September 2020, the original claimant was undergoing repeated tests, which is clear from Ex.P6 series. Ex.P17 is the medical bills available for purchasing medicines prescribed by the Neuro Foundation.

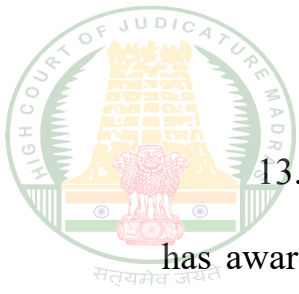


10. Unfortunately, in this case, there is no solid nexus established between the injury sustained and the cause of death. Not even the death certificate was marked to understand the reason for the death of the deceased.

PW-2, doctor, examined on the side of the claimants, only deposed about the treatment given by the doctor and even this doctor was not sure as to whether the death of the injured was due to the head injury sustained by her.

11. Learned counsel for appellant submitted that there is no other reason available for the death of the original claimant except the head injury sustained by her and that is evident from the continuous treatment taken by the claimant from 2016 to 2020. In view of the same, he contends that the claim petition ought to have been dealt with as a fatal case.

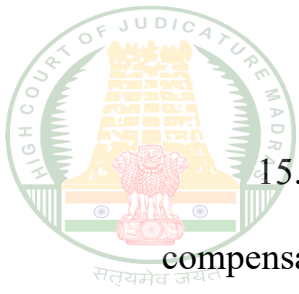
12. In the considered view of this Court, the original claimant died nearly four years after the accident. The most crucial fact regarding the cause of death is not available before the Court. In view of the same, going by the treatment and medical bills, this Court cannot arrive at a conclusion that the death was only due to the injury sustained by the deceased. In the absence of any solid material, if such a finding is rendered, it can only be based on surmises and presumptions. Hence, this Court is not able to come to a definite conclusion that the death of the original claimant had occurred only due to the injury sustained in the accident. In view of the same, this Court is not inclined to deal with this case as a fatal case.



13. Having rendered the above finding, this Court finds that the Tribunal has awarded compensation under the heads 'medical expenses' and 'transport charges'. As stated supra, the injured had undergone treatment for more than four years, which is borne out by records. In view of the same, considering the peculiar facts and circumstances and considering the fact that the injured was not even in a position to prosecute the claim petition on her own and the claim petition was filed in a representative capacity and the entire treatment was undergone in a Neuro Foundation, this Court is inclined to fix the compensation under the following heads:

- | | | | |
|-----|--|---|---------------|
| (a) | Loss of income
(for 4 years: $(10000 \times 12) \times 4$) | : | Rs.4,80,000/- |
| (b) | Pain and sufferings | : | Rs.1,00,000/- |
| (c) | Extra nourishment | : | Rs. 50,000/- |
| (d) | Attender charges | : | Rs.1,00,000/- |

14. It must be made clear that the above compensation has been fixed by this Court only on the peculiar facts of this case and this judgment cannot be taken to be a precedent in any other case. Ultimately, when the Court fixes the compensation in a motor accident case, the Court must only ensure that the compensation fixed is just and reasonable. This Court is convinced that the above compensation fixed is just and reasonable on the peculiar facts of this case.



15. 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.	Medical bills	3,75,490/-	3,75,490/-
2.	Transport charges	45,670/-	45,670/-
3.	Loss of income	-	4,80,000/-
4.	Pain and sufferings	-	1,00,000/-
5.	Extra nourishment	-	50,000/-
6.	Attender charges	-	1,00,000/-
	Total	4,21,160/-	11,51,160/-

16. The compensation awarded by the Tribunal at Rs.4,21,160/- is enhanced to Rs.11,51,160/-. 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 is concerned, the deficit court fee, if not paid, shall be paid by the appellants/claimants. 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.

24-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

gm

To

The Motor Accident Claims Tribunal,
Subordinate Judge,
Attur, Salem District.



WEB COPY

CMA No.3169 of 2



N.ANAND VENKATESH, J.

gm

Civil Miscellaneous Appeal No.3169 of 2025

24-07-2026