



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2026

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA No. 3266 of 2025

1. Kannammal
W/o.Late Vaiyapuri

2. Suresh,
S/o.Late Vaiyapuri

3. Kumar,
S/o.Late Vaiyapuri

4. Selvi,
D/o.Late Vaiyapuri

Appellant(s)

Vs

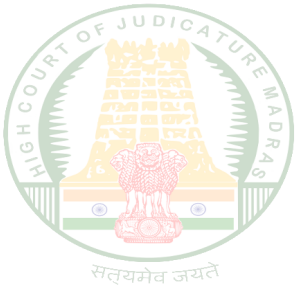
1. Muthu
S/o.Raman

2.National Insurance Company
Limited,
Divisional Office -1, L.R.N. Building,
2nd Floor, Sarada College Road,
Salem -636 007.

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Award dated 27.03.2025 made in MCOP.No.10 of 2022 on the file of the Court of the Motor Accident Claims Tribunal, Subordinate Judge, Omalur and enhance the compensation.



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For Appellant(s): S.Ramprabu

For Respondent(s): Mr.C.Paranthaman for R2

JUDGMENT

This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Omalur in MCOP.No.10 of 2022 dated 27.03.2025, wherein the claimants are seeking for enhancement of compensation.

2.The 1st claimant is the mother and the claimants 2 to 4 are the siblings of the deceased Raja. The case of the claimants is that the deceased Raja was riding a two wheeler on 05.09.2021 and at about 4.00 p.m, when the two wheeler was going near Thaandaanur water tank, the offending vehicle which was a two wheeler coming in the opposite direction dashed on the two wheeler driven by the deceased. As a result of which, the deceased was thrown out of the vehicle and he sustained grievous injuries and he succumbed to the injuries on 06.09.2021. An FIR came to be registered against the rider of the offending vehicle in Crime No.190 of 2021. 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 evidence came to a conclusion that the accident had

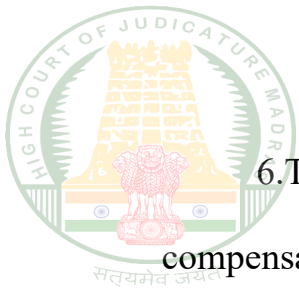


taken place only due to the rash and negligent driving on the part of the rider of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.19,66,200/- under the following heads:

<i>Sl.No</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1	Loss of future Income	17,47,200/-
2	Loss of Estate	16,500/-
3	Funeral Expenses	16,500/-
4	Loss of Love and Affection	1,76,000/-
5	Transportation Expenses	10,000/-
	Total Compensation :	19,66,200/-
	Contributory Negligence (10%)	1,96,620/-
	Total Compensation	17,69,580/-
	(Rounded Off)	17,70,000/-

4.From the above compensation, **the Tribunal attributed 10%** contributory negligence on the ground that the deceased was not wearing helmet. Accordingly, the balance amount of Rs.17,69,580/- which was rounded off to Rs.17,70,000/- was directed to be paid by the 2nd respondent Insurance Company along with interest at the rate of 7.5% p.a. Aggrieved by the same, the claimants have filed the present appeal seeking for enhancement of compensation.

5.Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent/Insurance Company.



6. The main ground that was raised is that the Tribunal while fixing the compensation under the head loss of income, fixed the notional monthly income of the deceased at Rs.13,000/-. In the case in hand, the accident had taken place in the year 2021. Hence, this Court is inclined to fix the notional monthly income at Rs.19,000/-. Accordingly, the compensation under the head 'loss of income' is calculated as follows:

Monthly income of the deceased	Rs.19,000/-
Add: Future prospects (40%)	Rs. 7,600/-

Total :	Rs.26,600/-

Less: 1/2 deduction	Rs.13,300/-
	x12

Annual Loss of dependency	Rs.1,59,600
Multiplier	x 16

Total	Rs.25,53,600/-

7. The Tribunal attributed 10% contributory negligence against the deceased on the ground that he was not wearing helmet. The Tribunal finding regarding the negligence is that the entire accident had taken place only due to the rash and negligent driving on the part of the rider of the offending vehicle. When that is so, the contributory negligence cannot be attributed only on the ground that the deceased was not wearing helmet at the time of the accident. Hence, this Court is inclined to set aside the finding rendered by the Tribunal attributing 10% contributory negligence against the deceased.



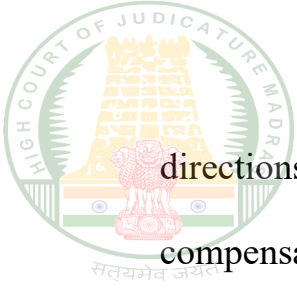
8. Insofar as the finding of the Tribunal invoking of the principle of pay and recover, the same is sustained.

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9. 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 awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1	Loss of future Income	17,47,200/-	25,53,600/-
2	Loss of Estate	16,500/-	16,500/-
3	Funeral Expenses	16,500/-	16,500/-
4	Loss of Love and Affection	1,76,000/-	1,76,000/-
5	Transportation Expenses	10,000/-	10,000/-
	Total Compensation :	19,66,200/-	--
	Contributory Negligence (10%)	1,96,620/-	--
	Total Compensation	17,69,580/-	27,72,600/-

10. The compensation awarded by the Tribunal at Rs.17,69,580/- is enhanced to Rs.27,72,600/-. The 2nd respondent Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at the rate of 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 a copy of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other



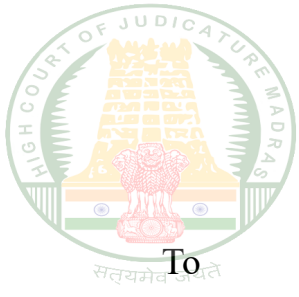
directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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

24-07-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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The Motor Accident Claims Tribunal,
Subordinate Judge, Omalur.



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N.ANAND VENKATESH J.

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