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CMA No. 2160 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-07-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA.No.2160 of 2026
and CMP No.16509 of 2026

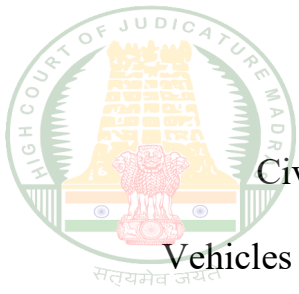
Reliance General Insurance Company Limited,
No.26/4, Amman Koil Street, P.M.Kuppam,
Pichivakkam, Poonthamallee, Chennai-600 123.

..Appellant(s)

Vs

1. Bavunu
W/o. Palayathan, No.4/26, Road Street,
P.M.Kuppam Village, Pichivakkam,
Kanchipuram District-631 553.
2. Palayathan
S/O. Durai,
No.4/26,Road Street, P.M.Kuppam Village,
Pichivakkam, Kanchipuram District-631 553
3. K. Murugan
S/O. Kathavarayan,
No. 1/180, Ponniyamman Koil Street,
Malayambakkam, Poonthamallee,
Chennai 600 123
4. Sangeetha
W/O. Jagadeesan
No. 26/4, Amman Koil Street,
P.M. Kuppam, Pichivakkam,
Kanchipuram District - 631 553

..Respondent(s)



Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 15.04.2025 passed in M.C.O.P.No.1241 of 2022 on the file of Motor Accidents Claims Tribunal, Chief Court of Small Causes, Chennai.

For Appellant(s): Mr.P.Suresh Srinivasan

For R1 and R2: Mr.V.Vijayaraghavan
For R4: Mr.U.Chitharambaram

JUDGMENT

(delivered by M.Jothiraman J.)

Challenging the award dated 15.04.2025 passed in M.C.O.P.No.1241 of 2022 on the file of Motor Accidents Claims Tribunal, Chief Court of Small Causes, Chennai, the insurance company has filed the present appeal.

2. Following are the brief facts of the case, which are relevant for deciding this appeal:

2.1 On 16.03.2021 at about 10.30 hours, while Jagadeesan was riding a motorcycle bearing Registration No.TN 21 AU 1227 from Veeraraghavapuram to P.M.Kuppam along with his wife, son and daughter on Thiruvallur to Kadampathur Salai, Tirupachur Service Road, in the place of Periya Colony on the left side of the road, a lorry bearing Registration No.TN 21 AJ 0072, which

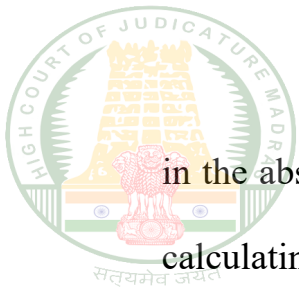


was coming behind the motorcycle, dashed against the motorcycle in a rash and negligent manner and the lorry wheel ran over Jagadeesan, as a result of which, he died on the spot itself and the children also died.

2.2 The appellant/insurance company denied all the allegations contained in the claim petition by filing a counter statement. It is stated that the claimants have to prove the validity of the vehicle records, driving licence of the driver and insurance coverage of the vehicle of the third respondent herein at the time of accident. The driver of the third respondent vehicle drove the vehicle under the influence of alcohol in violation of the provisions of the Motor Vehicles Act, 1988 and Tamil Nadu Motor Vehicles Rules, 1989 and terms of contract.

2.3 On behalf of the claimants, the first claimant Bavunu examined herself as PW1 and the eyewitness one Suresh as PW2 and marked Exs.P1 to P19. On the side of the respondents, no witness was examined nor any document marked.

2.4 Upon appreciation of oral and documentary evidence adduced on either side, the Tribunal found that the accident was caused due to the rash and negligent driving of the driver of the lorry. The Tribunal also considering the fact that though the claimants have claimed Rs.45,00,000/- as compensation and

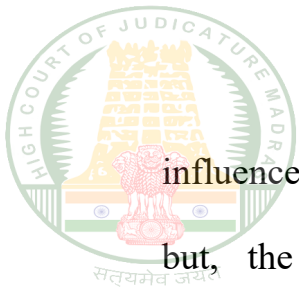


in the absence of proof of income, fixed the notional income at Rs.15,166/- for calculating the compensation. Also, by placing reliance on the judgment of the Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi & Ors.* reported in (2017) 16 SCC 680, added 40% towards future prospects and awarded Rs.28,99,000/- as a total compensation with interest at 7.5 % per annum from the date of filing of the claim petition till the date of realisation in full, excluding the default period, if any, with proportionate costs. The Tribunal awarded a sum of Rs.28,99,000/- as just compensation under various heads as under:

Heads of compensation	Amount awarded by the Tribunal (in Rs.)
Loss of income/dependency	27,23,840
Loss of estate	16,500
Loss of consortium	1,32,000
Funeral expenses	16,500
Transportation charges	10,000
Total	28,98,840

2.5 Aggrieved over the same, the insurance company has preferred the present appeal.

3. The learned counsel appearing for the appellant would submit that the Tribunal has erred in not appreciating the fact that the deceased, who travelled in the motorcycle, was equally negligent in the occurrence of the accident. As per Ex.P7 charge sheet, the driver of the lorry was under the

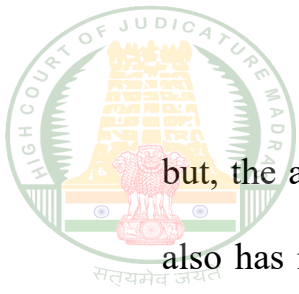


influence of alcohol and the Tribunal ought to have awarded pay and recovery, but, the Tribunal erroneously fixed liability on the appellant/insurance company. The claimants ought to have produced private bank statement to prove the income of the deceased, but, without any material evidence the Tribunal fixed the income of the deceased at Rs.15,200/- per month. The assessment and award of the Tribunal is unsustainable in law.

4. The learned counsel appearing for the respondents 1 and 2/claimants submitted that the Tribunal has rightly awarded the compensation taking into consideration the evidence on record. There is no infirmity in the award and prays dismissal of the appeal.

5. We have considered the submissions made on either side and perused the materials available on record.

6. PW2, who is the eyewitness to the accident, clearly deposed that the accident was caused due to the rash and negligent driving of the driver of the lorry. Ex.P1 is the copy of FIR and after investigation, charge sheet was laid against the driver of the lorry, which is seen from Ex.P7 final report. Therefore, the accident was caused due to the rash and negligent driving of the driver of the lorry. In order to ascertain as to whether the driver of the lorry was under the influence of alcohol or not, a blood test or urine test or any other test is required,



but, the appellant has failed to produce any such medical report. The appellant also has not chosen to examine any witness to that effect. There is no contra evidence on the side of the contesting respondent. In such circumstances, it is concluded that the Tribunal has rightly found that the accident was caused due to the rash and negligent driving of the driver of the lorry.

7. As per Ex.P10 aadhaar card of the deceased, the date of birth of the deceased was 31.05.1989 and the date of accident was 16.03.2021. Therefore, the age of the deceased at the time of accident was 31 years. The claimants have not placed any proof of income, though they have claimed that the deceased was an agriculturist and doing vegetable vending business and earning Rs.30,000/- per month.

8. In the absence of proof of income, as per the law laid down in the judgment of this Court in *Andal and Others Vs. Abinav Kannan and Others* reported in **2019 (1) TNMAC 54**, the Tribunal has rightly fixed the notional income of the deceased at Rs.15,200/- per month for calculating compensation. Also, the Tribunal, following the decision of the Hon'ble Supreme Court in *Sarla Verma & Ors vs. Delhi Transport Corp. & Anr* reported in **(2009) 6 SCC 121**, has rightly applied 16 multiplier and added 40% towards future prospects. The Tribunal has also rightly awarded Rs.16,500/- towards loss of estate and funeral expenses, each, Rs.10,000/- towards transportation charges and



Rs.44,000/- for each of the three claimants totally Rs.1,32,000/- towards loss of consortium.

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9. We are of the view that the Tribunal is right in holding that the alleged the accident was caused due to the rash and negligent driving of the driver of lorry and in the absence of proof of income, taken the notional income of the deceased and awarded compensation in a proper manner. Therefore, there is no infirmity in the award of the Tribunal and this appeal is liable to be dismissed as devoid of merits.

In the result, the civil miscellaneous appeal is dismissed confirming the award dated 15.04.2025 passed in M.C.O.P.No.1241 of 2022 on the file of Motor Accidents Claims Tribunal, Chief Court of Small Causes, Chennai. The appellant/insurance company shall deposit the compensation amount awarded, as confirmed by this Court, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this award and on such deposit, the claimants are directed to withdraw the same as apportioned by the Tribunal, after filing a proper petition for withdrawal. No costs. Connected C.M.P. is closed.

(N.S.K.,J.) (M.J.R.,J.)
14-07-2026

Index: Yes/No
Speaking/Non-speaking award
Neutral Citation: Yes/No

nsd



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CMA No. 2160 of 2



**N.SATHISH KUMAR J.
AND
M.JOTHIRAMAN J.**

nsd

To

1. The Chief Judge,
Motor Accidents Claims Tribunal,
Court of Small Causes, Chennai.

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

CMA No. 2160 of 2026

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