



C.M.A. (MD) No. 930 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 31.07.2026

Pronounced on : 07.08.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.930 of 2026

and

C.M.P.(MD)No.9439 of 2026

Chola Insurance Service Private Limited,
Dr.Mohana Complex, Ground Floor,
Door No.808, 809,
Trichy – Madurai Main Road,
Melur Taluk,
Madurai District-625106.

... Appellant/
2nd Respondent

Vs.

1.M.Jeyalakshmi

2.M.Senthilkumar

3.M.Suganya

...1 to 3 Respondents/
Petitioners

4.M.Manickavasagam

...4th Respondent/
1st Respondent

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the order passed in M.C.O.P.No.10 of



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2023 on the file of the Sub Court, Melur, dated 14.11.2025 by allowing the civil miscellaneous appeal.

For Appellant : Mr.C.Vakeeswaran

For Respondents : Mr.M.Balakrishnan for R1 to R3

No appearance for R4

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.10 of 2023 dated 14.11.2025 on the file of the Motor Accident Claims Tribunal / Subordinate Court, Melur.

2. The appellant / insurer, who was mulcted with liability to pay compensation of Rs.12,96,737/- (Rupees Twelve Lakhs Ninety Six Thousand Seven Hundred and Thirty Seven only) with interest and costs payable to the respondents 1 to 3 / claimants, for the death of one Malaichamy, consequent to an accident occurred on 22.04.2019, challenged the liability mulcted on it and also the quantum of compensation awarded at, by the Tribunal.

3. When the matter was taken up for hearing, the learned counsel



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appearing for the appellant / insurer submitted that they are not challenging the liability mulcted on it but they are only questioning the quantum of compensation awarded at, by the Tribunal.

4. The learned counsel appearing for the appellant / insurer would mainly contend that in the absence of any evidence, the Tribunal, without any basis, fixed the notional monthly income of the deceased as Rs.14,500/-, which is on higher side; that the Tribunal, without considering the number of dependents, has proceeded to deduct 1/4th of the income towards personal and living expenses instead of 1/3rd; that an official from Meenakshi Mission Hospital, Madurai has deposed that the medical bills to the tune of Rs.1,99,337/- out of the total amount of Rs.2,08,237/- was paid under the Family Insurance and the remaining amount of Rs.8,900/- alone was paid by the respondents 1 to 3 / claimants and that the Tribunal, without considering the same, has awarded Rs.2,08,237/- towards medical expenses and as such, the same cannot be sustained. He would further submit that the Tribunal awarded a sum of Rs.1,20,000/- towards loss of estate, which is without any basis and is very much excessive.



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5. It is the specific case of the respondents 1 to 3 / claimants that the deceased was a retired Village Administrative Officer (VAO) and is a land promoter and was earning Rs.50,000/- per month at the time of accident. Admittedly, the respondents 1 to 3 / claimants have not produced any iota of evidence to prove the monthly income of Rs.50,000/-. In the absence of any evidence to prove the said income, the Tribunal, following the judgment of the Division Bench of this Court in *Andal and others Vs. Avinav Kannan and another* reported in **2019 (1) TN MAC 54**, applied the cost inflation index and fixed the notional monthly income of the deceased as Rs.14,500/- and as such, the same cannot be faulted.

6. The Tribunal, taking note of Ex.P19 (postmortem certificate), determined the age of the deceased as 63 years at the time of accident and the same has not been disputed by the appellant / insurer.

7. Admittedly, the first respondent / first claimant is the wife, the second respondent / second claimant is the son and the third respondent / third claimant is the daughter of the deceased Malaichamy. As per the dictum laid down by the Hon'ble Supreme Court in *Sarla Verma and*



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others Vs. Delhi Transport Corporation and another reported in **AIR 2009 SC 3104**, considering the number of dependents, the appropriate deduction would be $\frac{1}{3}^{\text{rd}}$ and not $\frac{1}{4}^{\text{th}}$ but the Tribunal has proceeded to deduct $\frac{1}{4}^{\text{th}}$ of the income towards personal and living expenses of the deceased and the same cannot be sustained and after such deduction, it comes to Rs.9,667/- {Rs.14,500/- - Rs.4,833/-}. As per the dictum laid down by the Hon'ble Supreme Court in **Sarla Verma's** case, the Tribunal has rightly applied the multiplier 7. Hence, the loss of dependency is reassessed at Rs.8,12,028/- {Rs.9,667/- x 12 x 7}.

8. The Tribunal, taking note of the medical bills under Ex.X3 and Ex.P9, has awarded Rs.2,08,237/- towards medical expenses. But the learned counsel appearing for the appellant / insurer would contend that out of the said amount, even according to the official of Meenakshi Mission Hospital, Rs.1,99,337/- was paid under the Family Insurance and as such, the respondents 1 to 3 / claimants are not entitled to get that amount. Recently, the Hon'ble Supreme Court in **New India Assurance Company Limited Vs. Dolly Satish Gandhi and another** reported in **2026 INSC 498**, has specifically held that the amount received under the



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mediclaim or medical insurance policy are not liable to be deducted from the compensation awarded under the Motor Vehicles Act and the claim under the Motor Vehicles Act is a statutory right against the tortfeasor, whereas, the mediclaim is a contractual benefit earned by the insured by payment of premiums. Hence, the contention of the learned counsel appearing for the appellant / insurer in this regard is liable to be rejected.

9. The Tribunal has awarded a sum of Rs.1,20,000/- towards loss of estate (Rs.40,000/- x 3), Rs.20,000/- towards loss of consortium, Rs.25,000/- towards funeral expenses and Rs.10,000/- towards transportation expenses. It is evident that the award of Rs.1,20,000/- under the head of loss of estate is an inadvertent error and that the said amount ought to have been awarded under the head of loss of consortium. The first respondent / first claimant, being the wife of the deceased, is entitled to a sum of Rs.40,000/- towards spousal consortium, while the respondents 2 and 3 / claimants 2 and 3, being the children of the deceased, are entitled to a sum of Rs.40,000/- each towards parental consortium. The respondents 1 to 3 / claimants are also entitled to a sum of Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate under the



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conventional heads. Accordingly, the compensation awarded by the Tribunal is modified as follows:

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	9,13,500	8,12,028	Reduced
2.	Loss of estate	1,20,000	15,000	Reduced
3.	Loss of consortium	20,000	1,20,000	Enhanced
4.	Funeral expenses	25,000	15,000	Reduced
5.	Transport expenses	10,000	Nil	Nil
6.	Medical expenses	2,08,237	2,08,237	Confirmed
	Total	12,96,737	11,70,265 rounded off to 11,70,270	Reduced by Rs.1,26,467/-

10. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

11. In the result, this Civil Miscellaneous Appeal is partly allowed



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and the compensation awarded by the Tribunal at Rs.12,96,737/- (Rupees Twelve Lakhs Ninety Six Thousand Seven Hundred and Thirty Seven only) is hereby reduced to **Rs.11,70,270/- (Rupees Eleven Lakhs Seventy Thousand Two Hundred and Seventy only)** together with interest and costs. The appellant / insurer is directed to deposit the modified award amount with interest and costs from the date of petition till the date of realization excluding the default period, if any, to the credit of M.C.O.P.No.10 of 2023 on the file of the Motor Accident Claims Tribunal / Subordinate Court, Melur, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. Thereafter, the appellant / insurer is permitted to recover the same from the fourth respondent / first respondent as per law. Out of the said compensation amount, the first respondent / first claimant is entitled to get **Rs.5,00,000/- (Rupees Five Lakhs only)** and the respondents 2 and 3 / claimants 2 and 3 are entitled to get **Rs.3,35,135/- (Rupees Three Lakhs Thirty Five Thousand One Hundred and Thirty Five only) each.** On such deposit being made, the respondents 1 to 3 / claimants are permitted to withdraw their shares along with interest and costs as per the apportionment fixed by this Court, less amount already



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withdrawn, if any, on due application before the Tribunal. If the amount was already deposited by the appellant / insurer, the balance amount shall be withdrawn by them. Consequently, connected Miscellaneous Petition is closed. The parties shall bear their own costs.

07.08.2026

NCC :yes/No
Index :yes/No
Internet:yes/No
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To

- 1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Melur.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Judgment made in
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Dated : 07.08.2026