



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

**C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024**

C.M.A.No. 2984 of 2023

P.Perumayi

... Appellant

Vs.

1. Karthikeyan
2. New India Assurance Co. Ltd.,
Paramathy Road, Namakkal Town,
Namakkal Taluk.
3. R.Lingeswaran
4. Divisional Manager,
National Insurance Co. Ltd.,
D.No.81-D, 2nd Floor, North Car Street,
Tiruchengode Town & Taluk,
Namakkal District.

... Respondents

Prayer in C.M.A.No.2984 of 2023 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 to set-aside 50% contributory negligence on the part of the appellant and to enhance the compensation in an order dated 08.11.2022 made in M.C.O.P.No.1624 of 2015, on the file of MACT/Additional District Court at Namakkal with interest of 9% and cost by allowing this appeal.

Appearance in all C.M.As.



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

For Appellants : Mr.M.Lokesh
For R1 : Exparte before the Tribunal
For R2 : Ms.A.Salomi
For R3 : N/D/W vide order dated
14.12.2023
For R4 : Mr.J.Chandran

COMMON JUDGEMENT

Challenging the fixation of contributory negligence, fastening the liability and the determination of quantum of compensation awarded by the Tribunal, the appellants/claimants have filed the present appeals.

2. Since all the appeals arise out of the common order passed by the Tribunal, they have been taken up together and, being disposed of vide this common judgement.

3. On 23.08.2015, at about 5.00 p.m., nearly 18 persons viz., the injured and deceased persons were travelling in TATA Ace vehicle bearing Reg.No.TN-34-F-3020 on Ulundurpet Bye-pass road from east to west direction. At that time, a Chevrolet car bearing Reg.No.PY-01-CG-



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

9600, which came from the opposite direction, driven by its driver in a rash and negligent manner and dashed against the TATA Ace vehicle. As a result of which, many of them who were travelling in TATA Ace vehicle, sustained grievous injuries all over their bodies and even few of them had succumbed to death. Hence, the injured as well as the legal heirs of the deceased, have made claim petitions before the Tribunal for compensation.

4. Upon consideration of the oral and documentary evidence, the Tribunal held that contrary to the carrying capacity, the injured as well as the deceased persons have travelled in the TATA Ace vehicle. Accordingly, the Tribunal fastened liability of 50% on the part of the injured as well as the deceased and consequently, the Tribunal has awarded meager amount as compensation to the injured as well as the deceased persons.

5. Being not satisfied with the meager compensation awarded by the Tribunal and aggrieved over the contributory negligence of 50%



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

fastened on the injured as well as the deceased persons, the claimants have preferred the present appeals.

6. The learned counsel for the appellants/claimants submitted that, the Tribunal has fastened 50% contributory negligence and liability against the injured as well as the deceased, who travelled in the TATA Ace vehicle, only on the sole ground that they travelled in a goods carriage vehicle as unauthorized persons. Further, he submitted that, the injured as well as the deceased travelled in the TATA Ace vehicle for their employment as catering workers to serve in the nearby area. Further, he contended that, there is no logic in fastening the contributory negligence and liability to the extent of 50% on the part of injured as well as the deceased and the same is not sustainable. He would contend that the Tribunal ought to have fastened the entire liability on the part of the driver of Chevrolet car which was insured with the second respondent, who is responsible for the cause of the accident. Hence, he would urge this Court to set-aside the liability fastened by the Tribunal against the injured as well as the deceased and seeks appropriate enhancement of



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY compensation in favour of the appellants.

7. Per contra, the learned counsel for the second respondent/New India Assurance Company would submit that, the persons who were traveling in TATA Ace vehicle are all unauthorized passengers, and the said vehicle is meant for carrying goods and they are not supposed to travel in the said vehicle. Therefore, the Tribunal has rightly fastened 50% contributory negligence against the injured as well as the deceased, which requires no interference of this Court.

8. I have given due consideration on the submissions made by the learned counsel for the appellants as well as the second respondent and perused the materials available on record.

9. The fact and the manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The challenge in all these appeals is with regard to fixation of negligence, fastening the liability as well as the quantum of compensation awarded by the Tribunal.



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

Contributory Negligence and liability:

10. As far as the negligence is concerned, the Tribunal has fastened 50% contributory negligence against the injured as well as the deceased and the remaining 50% contributory negligence on the part of the driver of the Chevrolet car/second respondent. The finding of the Tribunal is that due to rash and negligent driving of the driver of Chevrolet car/second respondent, the accident had occurred. The Tribunal has not traced out any material, which would show that the accident had occurred on the part of the driver of the TATA Ace. While such being the case, the Tribunal ought to have fastened the entire negligence on the part of the driver of the Chevrolet car.

11. The learned counsel for the second respondent contented that the injured as well as the deceased had travelled in TATA Ace vehicle as unauthorized passengers i.e., beyond the capacity of two persons, but about 18 persons had travelled in TATA Ace vehicle and it would appear that they had travelled in goods carriage vehicle. Therefore, it would be



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

willful negligence on the part of the injured as well as the deceased, but the cause for the accident was due to rash and negligent driving of the car driver.

12. Considering the given facts and circumstances of the case, fixation of 50% contributory negligence on the part of the injured as well as the deceased by the Tribunal, which is on the higher side, having come to the conclusion that the cause for the accident was only due to rash and negligent driving of the second respondent/Chevrolet car. Thus, the fastening of 50% contributory negligence against the injured as well as the deceased and 50% contributory negligence on the part of driver of the second respondent car is not reasonable. Therefore, this Court is inclined to fix 75% contributory negligence against the driver of the Chevrolet car insured with the second respondent and 25% willful negligence against the injured as well as the deceased, who travelled in TATA Ace vehicle. Thus, the order of the Tribunal with regard to the negligence is modified at the ratio of 75:25. Accordingly, 75% negligence is fixed on the part of the second respondent/ Chevrolet car and 25% negligence is fixed on the



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

part of the injured as well as the deceased, who travelled in the TATA Ace vehicle and accordingly, the liability has also been fastened against the injured as well as the deceased and the Assurance Company respectively.

Quantum of compensation:

13. As far as the quantum of compensation in the cases of injured in C.M.A.Nos.2984 of 2023, 198 of 2024, 201, 236, 240, 242, 256 of 2024 is concerned, in all the above said C.M.As, while awarding the compensation to the claimants, the Tribunal has adopted percentage method towards “disability” instead of applying multiplier method, and there is no dispute on that aspect. The main grievance of the appellants is that, the Doctor assessed certain percentage of disability of the injured and issued the disability certificates, which have also been marked. However, the Tribunal has failed to take the entire percentage of disability assessed by the Doctor for computing the compensation.

14. On perusal of the order, it shows that the Tribunal has substantially reduced the percentage of disability for the purpose of



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

awarding the compensation to the injured, as if the Tribunal is going to award only for the functional disability. At any cost, the reduction of the disability substantially from that of the disability assessed by the Doctor is not correct. Considering the nature of the injuries sustained by the injured/claimants, this Court is inclined to modify the percentage of disability for the purpose of awarding just compensation to the injured towards disability.

15. The Tribunal had fixed Rs.5,000/- per percentage towards “disability”, which is just and reasonable, and both the learned counsels have also agreed for the same. Further, the learned counsel for the appellants submitted that the Tribunal has not awarded any amount towards “loss of amenities” to the injured. Hence, this Court is inclined to award a sum of Rs.5,000/- towards “loss of amenities” in all the above said C.M.A's.

16. Except the modification made under the head, viz., Disability, the award of compensation passed by the Tribunal under other heads



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

remain unaltered as the same appear to be just and reasonable.

17. Thus, in the cases of injuries, the percentage of functional disability as determined by the Tribunal in the above C.M.A's are modified as hereunder:-

<i>S.N os.</i>	<i>C.M.A.Nos.</i>	<i>Disability assessed by Doctor (in %)</i>	<i>Tribunal's taken (in %)</i>	<i>Now modified and assessed (in %)</i>
1.	2984 of 2023	25	12	18
2.	198 of 2024	20	10	16
3.	201 of 2024	25	12	18
4.	236 of 2024	22	10	17
5.	240 of 2024	35	15	28
6.	242 of 2024	20	10	16
7.	256 of 2024	29	12	22

18. Thus, the compensation awarded by the Tribunal under the head of “disability” is modified and enhanced as hereunder:-

<i>S.Nos .</i>	<i>C.M.A.Nos.</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	2984 of 2023	60,000	90,000
2.	198 of 2024	50,000	80,000
3.	201 of 2024	60,000	90,000



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

S.Nos .	C.M.A.Nos.	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
4.	236 of 2024	50,000	85,000
5.	240 of 2024	75,000	1,40,000
6.	242 of 2024	50,000	80,000
7.	256 of 2024	60,000	1,10,000

19. Thus, the total compensation payable to the appellants/injured under various heads in the following C.M.A's are modified as hereunder:-

C.M.A.No.2984 of 2023:

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
1.	Diability	60,000/-	90,000/-
2.	Pain & suffering	6,000/-	6,000/-
3.	Extra nourishment	5,000/-	5,000/-
4.	Transport expenses		
5.	Attender charges	6,000/-	6,000/-
6.	Loss of income during the treatment period	6,000/-	6,000/-
7.	Loss of amenities	Nil	5,000/-
8	Medical Bills	62,143/-	62,143/-
	Total	1,45,143/-	1,80,143/-
	Less 25% contributory negligence against the		45,036/-



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
	injured		
	Total		1,35,107/-

20. Consequently, the total compensation amount of **Rs.72,572/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.1,35,107/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

C.M.A.No.198 of 2024:

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
1.	Diability	50,000/-	80,000/-
2.	Pain & suffering	15,000/-	15,000/-
3.	Extra nourishment	2,500/-	2,500/-
4.	Transport expenses	2,500/-	2,500/-
5.	Attender charges	1,000/-	1,000/-
6.	Loss of income during the treatment period	1,000/-	1,000/-
7.	Loss of amenities	Nil	5,000/-
8	Medical Bills	12,981/-	12,981/-



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
	Total	84,981/-	1,19,981/-
	Less 25% contributory negligence against the injured		29,995/-
	Total		89,986/-

21. Consequently, the total compensation amount of **Rs.42,491/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.89,986/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

C.M.A.No.201 of 2024:

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
1.	Diability	60,000/-	90,000/-
2.	Pain & suffering	20,000/-	20,000/-
3.	Extra nourishment	3,500/-	3,500/-
4.	Transport expenses	3,500/-	3,500/-
5.	Attender charges	4,000/-	4,000/-
6.	Loss of income during the treatment period	4,000/-	4,000/-
7.	Loss of amenities	Nil	5,000/-



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
8	Medical Bills	85,677/-	85,677/-
	Total	1,80,677/-	2,15,677/-
	Less 25% contributory negligence against the injured		53,919/-
	Total		1,61,758/-

22. Consequently, the total compensation amount of **Rs.90,339/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.1,61,758/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

C.M.A.No.236 of 2024:-

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
1.	Diability	50,000/-	85,000/-
2.	Pain & suffering	20,000/-	20,000/-
3.	Extra nourishment	2,500/-	2,500/-
4.	Transport expenses	2,500/-	2,500/-
5.	Attender charges	1,000/-	1,000/-
6.	Loss of income during the treatment period	1,000/-	1,000/-



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
7.	Loss of amenities	Nil	5,000/-
8	Medical Bills	25,696/-	25,696/-
	Total	1,02,696/-	1,42,696/-
	Less 25% contributory negligence against the injured		35,674/-
	Total		1,07,022/-

23. Consequently, the total compensation amount of **Rs.51,348/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.1,07,022/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

C.M.A.No.240 of 2024:-

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
1.	Diability	75,000/-	1,40,000/-
2.	Pain & suffering	20,000/-	20,000/-
3.	Extra nourishment	2,500/-	2,500/-
4.	Transport expenses	2,500/-	2,500/-
5.	Attender charges	2,500/-	2,500/-
6.	Loss of income during the treatment period	2,500/-	2,500/-



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
7.	Loss of amenities	Nil	5,000/-
8	Medical Bills	69,937/-	69,937/-
	Total	1,74,937/-	2,44,937/-
	Less 25% contributory negligence against the injured		61,234/-
	Total		1,83,703/-

24. Consequently, the total compensation amount of **Rs.87,469/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.1,83,703/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

C.M.A.No.242 of 2024:

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
1.	Diability	50,000/-	80,000/-
2.	Pain & suffering	20,000/-	20,000/-
3.	Extra nourishment	2,500/-	2,500/-
4.	Transport expenses	2,500/-	2,500/-
5.	Attender charges	2,500/-	2,500/-
6.	Loss of income during the treatment period	2,500/-	2,500/-



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
7.	Loss of amenities	Nil	5,000/-
8	Medical Bills	11,335/-	11,335/-
	Total	91,335/-	1,26,336/-
	Less 25% contributory negligence against the injured		31,584/-
	Total		94,752/-

25. Consequently, the total compensation amount of **Rs.45,667.50/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.94,752/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

C.M.A.No.256 of 2024:

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
1.	Diability	60,000/-	1,10,000/-
2.	Pain & suffering	20,000/-	20,000/-
3.	Extra nourishment	2,500/-	2,500/-
4.	Transport expenses	2,500/-	2,500/-
5.	Attender charges	2,500/-	2,500/-
6.	Loss of income during the treatment period	2,500/-	2,500/-



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

S.Nos .	Heads	Amount awarded by the Tribunal (in Rs. /-)	Amount awarded by this Court (in Rs.)
7.	Loss of amenities	Nil	5,000/-
8	Medical Bills	1,13,310/-	1,13,310/-
	Total	2,03,310/-	2,58,310/-
	Less 25% contributory negligence against the injured		64,577/-
	Total		1,93,733/-

26. Consequently, the total compensation amount of **Rs.1,01,655/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.1,93,733/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

27. As far as the C.M.A.Nos.202, 205, 241, & 244 of 2024 are concerned, the learned counsel for the appellants restricted his claim, only with regard to the fixation of 50% contributory negligence on the part of the injured as well as the deceased. Since in the above batch of cases, this Court fixed 75% contributory negligence on the part of the driver of second respondent/Chevrolet car and 25% negligence on the part of the injured as well as the deceased, the same will hold good in respect of



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

these four appeals also viz., C.M.A.Nos.202, 205, 241, & 244 of 2024 and accordingly, the contributory negligence and liability is modified to the extent of 75% on the part of the driver of the second respondent/Chevrolet car and 25% negligence on the part of the injured as well as the deceased.

Quantum of compensation in respect of fatal cases:

28. As far as the C.M.A.Nos.200, 203, 204 & 206 of 2024 are concerned, the learned counsel for the appellants submitted that the notional income of the deceased fixed by the Tribunal is meager. Hence, he seeks appropriate enhancement in favour of the legal heirs of the deceased persons in all the following four appeals.

C.M.A.No.200 of 2024:

29. In this case, at the time of accident, the deceased was aged about 33 years, and working as Cooking master and earning a sum of Rs.15,000/- per month. However, without considering the same, the Tribunal had erroneously fixed the notional income of the deceased at Rs.9,000/- per month, which appears to be low. Further, the learned



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

counsel for the appellants relied upon the decision in the case of ***Syed Sadiq Vs. United India Insurance Company***, reported in **2014 (1) TNMAC 459 (SC)**, wherein, the Hon'ble Apex Court fixed the notional monthly income even for a vegetable vendor at Rs.6,500/-, who sustained injuries in the accident occurred in the year 2008, by applying the multiplier based on cost inflation index, in the absence of any proof for income, it would come more than a sum of Rs.12,000/-, and also relying upon the judgment of Hon'ble Division Bench of this Court in the case of ***Andal vs. Avinav Kannan and another reported in 2019 (1) TNMAC 54, (Madras)***, the notional income of the deceased would come around a sum of Rs.12,798/- and the calculation memo has also been filed to that effect.

30. Per contra, the learned counsel for the second respondent/Assurance Company submitted that the notional income of the deceased may be taken as a sum of Rs.10,000/-, which is just and reasonable.



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

31. In view of the above and applying the ratio laid down by the Apex Court in *Syed Sadiq's* case (cited supra), and on relying upon the judgment of Hon'ble Division Bench of this Court in the case of *Andal vs. Avinav Kannan and another case* (cited supra), this Court is inclined to fix the notional income of the deceased at Rs.12,000/- per month, which is just and reasonable. Thus, by fixing the notional income of the deceased at Rs.12,000/-; adding future prospects at 40%, as has been held by the Constitution Bench of the Hon'ble Apex Court, the total income per month is quantified at Rs.16,800/-; deducting 1/3rd towards his personal expenses i.e., a sum of Rs.5,600/-, the notional of income is arrived at Rs.11,200/-; and adopting the multiplier of '16' (since the deceased was aged about 33 years), the compensation towards "Loss of Income" would be at Rs.11,200/-x12x16=Rs.21,50,400/-.

32. This Court finds that the Tribunal has failed to award any amount towards "loss of love and affection" and "transportation". Hence, this Court is inclined to award a sum of Rs.88,000/- and Rs.5,000/- respectively.



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

33. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds the same to be just and proper and are hereby confirmed.

34. Thus, the total compensation payable to the appellants/legal heir of the deceased under various Heads is as hereunder:-

<i>S.No</i>	<i>Head</i>	<i>Amount granted in Rs.</i>
1.	Loss of Income	21,50,400/-
2.	Loss of consortium	44,000/-
3.	Loss of love and affection	88,000/-
4.	Funeral expenses	16,500/-
5.	Loss of estate	16,500/-
6.	Transportation	5,000/-
	Total	23,20,400/-
	Less 25% contributory negligence on the part of the deceased	5,80,100/-
	Total	17,40,300/-

35. Consequently, the total compensation amount of



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

Rs.8,44,900/- awarded by the Tribunal is hereby modified and enhanced to **Rs.17,40,300/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit. Out of total compensation availed to the appellants/legal heirs of the deceased; the first appellant, the wife of the deceased is entitled to a sum of Rs.10,00,000/- together with proportionate interest; the second appellant, the daughter of the deceased, being a minor is entitled to a sum of Rs.5,00,000/- together with proportionate interest; the third appellant, the mother of the deceased is entitled to a sum of Rs.2,40,300/- together with proportionate interest. As regards the award amount to be disbursed to the minor claimant, the second appellant is concerned, on deposit of the award amount being made by the second respondent/Assurance Company, Tribunal shall transfer the entire award amount belonging to the minor, in her name, in any of the Nationalized Bank, in an interest bearing FD Account till the minor attain majority and the interest accrued thereon shall also be retained in their account, and once, the minor attained Majority, Tribunal shall take steps to settle the award amount to the claimants in accordance with law.



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

C.M.A.No.203 of 2024:

36. In the present case, the deceased was well at the time of accident, aged about 42 years, and he was earning more than a sum of Rs.15,000/- per month. However, the Tribunal has taken the monthly income of the deceased at Rs.7,500/-, which is on the lower side, which requires to be reconsidered by this Court as per the law laid down by the Hon'ble Apex Court. Further, the Tribunal has not awarded any amount under the heads of “loss of love and affection” and “transportation” and the same may be awarded. Accordingly, he prays for appropriate enhancement in favour of the legal heirs of the deceased.

37. The learned counsel appearing for the second respondent/Assurance Company submitted that, any fair amount with respect to notional income can be re-determined by this Court.

38. In view of the above facts and circumstances of the case, this Court is inclined to fix a notional income of the deceased at



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

Rs.12,000/- per month, which is just and reasonable. Thus, by fixing the notional income of the deceased at Rs.12,000/-; adding future prospects at 25%, as has been held by the Constitution Bench of the Apex Court, the total income per month is quantified at Rs.15,000/-; deducting 1/3rd towards his personal expenses, the loss of income is arrived at Rs.10,000/-; and adopting the multiplier of '14' (since the deceased was aged about 42 years), the compensation towards “Loss of Income” would be at **Rs.10,000/-x12x14=Rs.16,80,000/-**.

39. This Court finds that the Tribunal has failed to award any amount towards “loss of love and affection” and “transportation”. Hence, this Court is inclined to award a sum of Rs.88,000/- and Rs.5,000/- respectively under the above said heads.

40. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds the same to be just and proper and are hereby confirmed.



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

41. Thus, the total compensation payable to the appellants/legal heir of the deceased under various Heads is as hereunder:-

<i>S.No</i>	<i>Head</i>	<i>Amount granted in Rs.</i>
1.	Loss of Income	16,80,000/-
2.	Loss of love and affection	88,000/-
3.	Funeral expenses	16,500/-
4.	Loss of estate	16,500/-
5.	Transportation	5,000/-
6.	Medical bills	1,23,966
	Total	19,29,966/-
	Less 25% contributory negligence on the part of the deceased	4,82,491/-
	Total	14,47,474/-

42. Consequently, the total compensation amount of **Rs.6,03,483/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.14,47,474/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit. Out of total compensation availed to the appellants/legal heirs of the deceased; the first appellant, the daughter of the deceased is entitled to a sum of



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

Rs.7,47,474/- together with proportionate interest; the second appellant, the son of the deceased is entitled to a sum of Rs.7,00,000/- together with proportionate interest.

C.M.A.No.204 of 2024:

43. In the present case, the deceased was well at the time of accident, aged about 43 years, and he was earning a sum of Rs.15,000/- per month. However, the Tribunal has taken the monthly income of the deceased at Rs.9,000/-, which is on the lower side, which requires to be reconsidered by this Court as per the law laid down by the Hon'ble Apex Court. Further, the Tribunal has failed to award any amount under the heads of “loss of love and affection” and “transportation” and the same may be awarded. Accordingly, he prays for appropriate enhancement in favour of the legal heirs of the deceased.

44. The learned counsel appearing for the second respondent/Assurance Company submitted that, any fair amount with respect to notional income can be re-determined by this Court.



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

45. In view of the above facts and circumstances of the case, this Court is inclined to fix a notional income of the deceased at Rs.12,000/- per month, which is just and reasonable. Thus, by fixing the notional income of the deceased at Rs.12,000/-; adding future prospects at 25%, as has been held by the Constitution Bench of the Apex Court, the total income per month is quantified at Rs.15,000/-; deducting 1/4th towards his personal expenses, the loss of income is arrived at Rs.11,250/-; and adopting the multiplier of '14' (since the deceased was aged about 43 years), the compensation towards “Loss of Income” would be at **Rs.11,250/-x12x14=Rs.18,90,000/-**.

46. This Court finds that the Tribunal has failed to award any amount towards “loss of love and affection” and “transportation”. Hence, this Court is inclined to award a sum of Rs.2,20,000/- and Rs.5,000/- respectively under the above said heads.

47. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds the same to be just and



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

proper and are hereby confirmed.

48. Thus, the total compensation payable to the appellants/legal heir of the deceased under various Heads is as hereunder:-

<i>S.No</i>	<i>Head</i>	<i>Amount granted in Rs.</i>
1.	Loss of Income	18,90,000/-
2.	Loss of constorium	44,000/-
3.	Loss of love and affection	2,20,000/-
4.	Funeral expenses	16,500/-
5.	Loss of estate	16,500/-
6.	Transportation	5,000/-
	Total	21,92,000/-
	Less 25% contributory negligence on the part of the deceased	5,48,000/-
	Total	16,44,000/-

49. Consequently, the total compensation amount of **Rs.7,47,250/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.16,44,000/-** which shall carry interest at the rate of **7.5%** per



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

annum from the date of claim petition till the date of deposit. Out of total compensation availed to the appellants/legal heirs of the deceased; the first appellant, the wife of the deceased is entitled to a sum of Rs.4,44,000/- together with proportionate interest; the second, third and fourth appellants, the son of the deceased are entitled to a sum of Rs.2,00,000/-each together with proportionate interest; the fifth and sixth appellants being minors; the son and daughter of the deceased are entitled to a sum of Rs.3,00,000/- each together with proportionate interest. As regards the award amount to be disbursed to the minor claimants, the appellants 5 and 6 are concerned, on deposit of the award amount being made by the second respondent/Assurance Company, Tribunal shall transfer the entire award amount belonging to the minors, in their names, in any of the Nationalized Bank, in an interest bearing FD Account till the minors attain majority and the interest accrued thereon shall also be retained in their account, and once, the minors attained Majority, Tribunal shall take steps to settle the award amount to the claimants in accordance with law.



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

C.M.A.No.206 of 2024:

50. In the present case, the deceased was well at the time of accident, aged about 35 years, and he was earning a sum of Rs.15,000/- per month. However, the Tribunal has taken the monthly income of the deceased at Rs.9,000/-, which is on the lower side, which requires to be reconsidered by this Court as per the law laid down by the Hon'ble Apex Court. Further, the Tribunal has failed to award any amount under the heads of “loss of love and affection” and “transportation” and the same may be awarded. Accordingly, he prays for appropriate enhancement in favour of the legal heirs of the deceased.

51. The learned counsel appearing for the second respondent/Assurance Company submitted that, any fair amount with respect to notional income can be re-determined by this Court.

52. In view of the above facts and circumstances of the case, this Court is inclined to fix a notional income of the deceased at Rs.12,000/- per month, which is just and reasonable. Thus, by fixing the



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

WEB COPY

notional income of the deceased at Rs.12,000/-; adding future prospects at 40%, as has been held by the Constitution Bench of the Apex Court, the total income per month is quantified at Rs.16,800/-; deducting 1/4th towards his personal expenses, the loss of income is arrived at Rs.12,600/-; and adopting the multiplier of '16' (since the deceased was aged about 35 years), the compensation towards “Loss of Income” would be at **Rs.12,600/-x12x16=Rs.24,19,200/-**.

53. This Court finds that the Tribunal has failed to award any amount towards “loss of love and affection” and “transportation”. Hence, this Court is inclined to award a sum of Rs.1,32,000/- and Rs.5,000/- respectively under the above said heads.

54. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds the same to be just and proper and are hereby confirmed.

55. Thus, the total compensation payable to the appellants/legal



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

heir of the deceased under various Heads is as hereunder:-

<i>S.No</i>	<i>Head</i>	<i>Amount granted in Rs.</i>
1.	Loss of Income	24,19,200/-
2.	Loss of love and affection	1,32,000/-
3.	Loss of consortium	44,000/-
4.	Funeral expenses	16,500/-
5.	Loss of estate	16,500/-
6.	Transportation	5,000/-
	Total	26,33,200/-
	Less 25% contributory negligence on the part of the deceased	6,58,300/-
	Total	19,74,900/-

56. Consequently, the total compensation amount of **Rs.9,45,700/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.19,74,900/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit. Out of total compensation availed to the appellants/legal heirs of the deceased; the first appellant, the wife of the deceased is entitled to a sum of **Rs.7,00,000/-** together with proportionate interest; the second appellant,



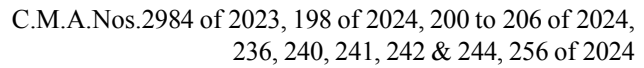
C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

the son of the deceased is entitled to a sum of Rs.5,00,000/- together with proportionate interest; the third appellant, the daughter of the deceased is entitled to a sum of Rs.5,00,000/- together with proportionate interest; the fourth appellant, the mother of the deceased is entitled to a sum of Rs.2,74,900/- together with proportionate interest.

57. In the result, all the Civil Miscellaneous Appeals filed by the appellants/claimants are partly allowed on the following terms:-

(i) The second respondent, Assurance Company is directed to deposit the entire amount awarded by this Court along with interest at the rate of 7.5 % p.a. and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, after deducting the amount already deposited, if any.

(ii) On such deposit being made by the second respondent/Assurance Company, the Tribunal shall transfer the amount directly to the claimants' respective bank accounts through RTGS within a period of three weeks thereon.



v) There shall be no order as to costs.

To

1. The Motor Accident Claims Tribunal,
Additional District Court, Namakkal.
2. The Section Officer,
V.R. Section,
High Court, Madras.



WEB COPY



C.M.A.Nos.2984 of 2023, 198 of 2024, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024

Krishnan Ramasamy,J.

jd

**C.M.A.Nos.2984 of 2023, 198 of 2024
, 200 to 206 of 2024,
236, 240, 241, 242 & 244, 256 of 2024**

20.03.2024