



CMA.No.696, 697 and 698 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :03.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CMA Nos.696, 697 and 698 of 2025**

1. Navaneetha  
2.Minor Deepana  
(Represented by his next friend mother Navaneetha)  
3.Thangammal  
4.Govindhan .... Appellants in CMA.No.696 of 2025

1. Dhavamani  
2.Minor Dhillip  
(Represented by his next friend mother Dhavamani)  
3. Palaniyammal  
4.Madhaiyan .... Appellants in CMA.No.697 of 2025

1.Yuvarani  
2.Minor Pasupathi  
3.Minor Sakthi  
(Minors are rep. by their next friend mother Yuvarani)  
4. Solaiyammal  
Chinnakulanthai (Died) .... Appellants in CMA.No.698 of 2025

Vs

1. Ashok  
  
2.The New India Assurance Company Ltd  
Madurai Do3, Sharon Building, 161-A,  
East Veli Street, Madurai District.  
Branch Office at, Salem Divisional Office,  
Sethu Krishna Trade Center,  
No. 133/31-A, II Floor, Trichy Main Road,  
Gugai, Salem District. ... Respondents in all C.M.A.'s



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**Prayer in CMA.No.696 of 2025** : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the appeal and enhance the award dated 19.01.2023, in MCOP No. 807 of 2021, on the file of the Special District Judge, MCOP Tribunal, Salem.

**Prayer in CMA.No. 697 of 2025** : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the appeal and enhance the award dated 19.01.2023, in MCOP No. 806 of 2021, on the file of the Special District Judge, MCOP Tribunal, Salem.

**Prayer in CMA.No. 698 of 2025** : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the appeal and enhance the award dated 19.01.2023, in MCOP No. 808 of 2021, on the file of the Special District Judge, MCOP Tribunal, Salem.

For Appellants in all CMA's : Mr.R.Navaneetha Krishnan

For Respondents in all CMA's : Mr.J.Chandran for R2

R1-Served-No appearance

### **COMMON JUDGMENT**

These civil miscellaneous appeals are filed challenging the common award passed in MCOP.Nos.807, 806, and 808 of 2021 respectively on the file of Special District Judge, MCOP Tribunal, Salem.

2. Since all these appeals are arising out of the same accident, they



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3. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

4. It is the case of the claimants that they are all dependents of the deceased persons namely Saminadhan, Eswaran and Selvaraj, who died in a road accident involving a lorry belonged to the first respondent and insured with the second respondent on 17.06.2021.

5. It is the case of the claimants in MCOP.No.807 of 2021 that the deceased Saminadhan, husband of the 1<sup>st</sup> claimant, father of the 2<sup>nd</sup> claimant and son of the 3<sup>rd</sup> and 4<sup>th</sup> claimants was riding his two-wheeler bearing registration number TN-52-F-9951 on Dharmapuri to Salem main road by following all the traffic rules. The deceased in MCOP.No.808 of 2021, Selvaraj travelled in the same bike as pillion rider. The lorry belonged to the 1<sup>st</sup> respondent insured with the 2<sup>nd</sup> respondent came in a rash and negligent manner and dashed against the two-wheeler ridden by the



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deceased and two other two-wheelers. As a result of the accident, both driver and pillion rider were died and the claim petition in MCOP.No.807 of 2021 was laid by dependents of driver Saminadhan seeking compensation of Rs.50,00,000/-. The claim petition in MCOP.No.808 of 2021 was laid by dependents of deceased pillion rider Selvaraj claiming compensation of Rs.50,00,000/-

6. It is the case of the claimants in MCOP.No.806 of 2021 that husband of the first claimant, father of the second claimant and son of the claimants 3 and 4, namely Eswaran had driven his two-wheeler bearing registration number TN-27-W-8076 on the extreme left-hand side of the road in Dharmapuri to Salem Main Road. The husband of the first claimant in MCOP.No.808 of 2021, father of the claimants 2 and 3 and son of the claimants 4 and 5 namely Selvaraj travelled in the very same bike driven by Saminadhan as a pillion rider. When they came near Thoppur Kanavayi Irattai palam, the lorry belonged to the first respondent insured with the second respondent came in a rash and negligent manner and dashed against the two-wheeler driven by Eswaran and two other two-wheelers. As a result



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of the accident, both the driver and the pillion rider of the two-wheeler bearing registration number TN-52-F-9951 and the rider of the two wheeler bearing registration No.TN-27-W-8076 died. Hence, three separate claim petitions were filed by the dependents of the deceased Saminadhan, Eswaran and Selvaraj in MCOP.No.807 of 2021, MCOP.No.806 of 2021 and MCOP.No.808 of 2021.

7. Since all these original petitions are arising out of the same accident, they were taken up together for enquiry.

8. The respondents filed their counter and opposed the claim petitions on the ground that the riders of the two wheelers engaged in racing in the National Highway under the influence of alcohol and attempted to overtake the lorry of the first respondent and in the process they fell down and succumbed to injuries. Therefore, according to the respondents, the entire negligence was on the part of the deceased and there was no negligence on the part of the driver of the lorry.



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9. Before the Tribunal, the wife of the deceased in MCOP.No.806 of 2021 was examined as PW-1. The wife of the deceased in MCOP.No.807 of 2021 was examined as PW-2. The wife of the deceased in MCOP.No.808 of 2021 was examined as PW-3. Two eye witnesses were examined as PW4 and PW5. On behalf of the respondents, the Superintendent of RTO office was examined as RW1. The claimants marked 26 documents as Exhibit P1 to Exhibit P26. Three other documents were marked as Exhibit X1 to Exhibit X3.

10. The Tribunal, based on the evidence available on record especially the evidence of eyewitness, PW4 and the contents of FIR marked as Exhibit P1, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the lorry by its driver. The compensation payable to the claimants were quantified at Rs.12,25,000, Rs.12,97,000/- and Rs.12,45,000/- respectively. Not satisfied with the quantum of compensation, the claimants have come before this court by way of these appeals.



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11. Both the learned counsel for the appellants/claimants as well as the Second Respondent/Insurance Company have not advanced any arguments on the questions of negligence as well as liability. Hence, the facts necessary to decide those questions are not discussed in these appeals.

12. Heard the arguments of the learned counsel for the appellants/claimants and the learned counsel for the Second Respondent/Insurance Company on the question of quantum.

13. Though notice served on first respondent and his name appears in the list, there is no representation for him.

14. The learned counsel for the appellants submitted that all the deceased persons were engaged in the business of power loom and were earning a sum of Rs.30,000/- per month. However, the Tribunal committed an error in fixing Rs.8,000/- as notional income for the deceased persons. Therefore, he seeks enhancement of the notional income fixed by the Tribunal.



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15. The learned counsel for the second respondent/ insurance company submitted that the claimants have not produced any documentary evidence to prove the avocation and income and hence, the Tribunal was justified in fixing Rs.8000/- as notional income for the deceased persons.

16. In the claim petitions, it was stated by the claimants that the deceased persons were engaged in the business of power loom and was earning a sum of Rs.30,000/- per month. In order to prove the said plea, an independent witness was examined as PW-5. He deposed that the deceased persons were owning power loom and earning a sum of Rs.30,000/-. The evidence of PW-5 has not been shattered in the cross-examination. In any event, even in the absence of any documentary evidence to prove the avocation and the income, taking into consideration the facts and circumstances of the case, this court can fix a notional income. In the case on hand, the accident had occurred in the year 2021. Therefore, taking into consideration the year of accident and the prevailing cost of living, this Court is inclined to fix Rs.16,500/- as notional income for the deceased



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WEB COPY persons.

17. In CMA.No. 696 of 2025, the age of the deceased can be fixed as 33 years based on Exhibit P-12 Post Mortem Report. Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 16. Since there are four dependents, one-fourth of the amount shall be deducted towards personal expenses of the deceased. Therefore, the loss of dependency is Rs.33,26,400/-.

$$16,500 \times 1.4 \times 12 \times 16 \times 3/4 = \text{Rs. } 33,26,400.$$

18. In addition to the above said amount, the claimants are entitled to non-pecuniary damages with the enhancement of 10% as per the law settled in *Pranay sethi* case. In the case on hand, the accident had taken place after three years from the date of pronouncement of the judgment in *Pranay sethi* case. Therefore, this Court is inclined to grant 10% enhancement towards non-pecuniary damages as laid down in *Pranay sethi* case. In that case, the first claimant is entitled to Rs. 44,000/- towards loss of consortium (wife). The second claimant is entitled to Rs.44,000/- towards loss of love and affection. The claimants 3 and 4 are entitled to Rs.44,000/- each under the head loss of parental consortium. In all, the claimants are entitled to



WEB COPY Rs.35,35,400/-

19. In view of the discussions made earlier, the award passed by the Tribunal in MCOP.No.807 of 2021 is modified as follows:-

| Sl. No | Description                                                                                                                                    | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.     | Loss of dependency                                                                                                                             | 10,80,000/-                     | 33,26,400/-                       | Enhanced                               |
| 2.     | Funeral Expenses converted as Funeral expenses and loss of estate                                                                              | 25,000/-                        | 33,000/-                          | Enhanced                               |
| 3.     | Loss of Consortium(1 <sup>st</sup> claimant)                                                                                                   | 40,000/-                        | 44,000/-                          | Enhanced                               |
| 4      | Loss of love and affection converted as loss of love and affection (2 <sup>nd</sup> claimant) and loss of parental consortium(claimants 3 & 4) | 80,000/-                        | 1,32,000/-<br>(44,000 x 3)        | Enhanced                               |
|        | <b>Total</b>                                                                                                                                   | <b>12,25,000/-</b>              | <b>35,35,400/-</b>                | <b>Enhanced by Rs.23,10,400/-</b>      |

20. With the above modifications, the Civil Miscellaneous Appeal in



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WEB COPY CMA.No.696 of 2025 is allowed and the compensation awarded by the Tribunal at Rs.12,25,000/- is hereby enhanced to Rs.35,35,400/-. The appellants/claimants are entitled to interest at the rate of 7.5% per annum (excluding the delay period, if any) from the date of filing of the claim petition till the date of realization. The 2<sup>nd</sup> respondent /Insurance company is directed to deposit the enhanced award amount before the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment.

21. As far as apportionment is concerned, the claimants 3 and 4/ parents of the deceased are entitled to Rs.3,00,000/- each. The minor 2<sup>nd</sup> claimant/ daughter of the deceased is entitled to Rs.14,00,000/- and the 1<sup>st</sup> claimant/wife of the deceased is entitled to Rs.15,35,400/-

22. The 2<sup>nd</sup> appellant/2<sup>nd</sup> claimant being minor, her share in the



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award amount is directed to be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme initially **for a period of three years**, which shall be renewed periodically until she attains majority. The 1<sup>st</sup> appellant/1<sup>st</sup> claimant, being the Natural Guardian of the minor 2<sup>nd</sup> claimant, is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account **once in three months** and the same shall be used for the welfare of the minor 2<sup>nd</sup> claimant. The claimants 1, 3 and 4 are entitled to withdraw their respective share of compensation amount, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The appellants are directed to pay the applicable additional court fee on the enhanced award amount. No costs.

23. In CMA.No.697 of 2025, it was pleaded by the claimants that the deceased was owning a power loom and was earning a sum of Rs.30,000/- per month. In view of the discussions made earlier, the notional income was fixed at Rs.16,500/- The Tribunal fixed the age of the deceased at 33 years based on Exhibit P7, driving license. Therefore, the claimants are entitled to



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40% enhancement towards future prospects. The applicable multiplier is 16.

Since there are four claimants, one-fourth of the amount has to be deducted towards personal expenses of the deceased. Therefore, the loss of dependency is Rs.33,26,400/-.

$$16,500 \times 1.4 \times 12 \times 16 \times 3 / 4 = \text{Rs. } 33,26,400.$$

24. In addition to the above said amount, the claimants are entitled to non-pecuniary damages with the enhancement of 10% as per the law settled in *Pranay sethi* case. In the case on hand, the accident had taken place after three years from the date of pronouncement of the judgment in *Pranay sethi* case. Therefore, this Court is inclined to grant 10% enhancement towards non-pecuniary damages as laid down in *Pranay sethi* case. In that case, the first claimant is entitled to Rs. 44,000/- towards loss of consortium (wife). The 2<sup>nd</sup> claimant is entitled to Rs.44,000/- towards loss of love and affection. The claimants 3 and 4 are entitled to Rs.44,000/- each under the head loss of parental consortium. In all, the claimants are entitled to Rs.35,35,400/-

25. In view of the discussions made earlier, the award passed by the



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WEB COPY Tribunal in MCOP.No.806 of 2021 is modified as follows:-

| Sl. No | Description                                                                                                                                    | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.     | Loss of dependency                                                                                                                             | 11,52,000/-                     | 33,26,400/-                       | Enhanced                               |
| 2.     | Funeral Expenses converted as Funeral expenses and loss of estate                                                                              | 25,000/-                        | 33,000/-                          | Enhanced                               |
| 3.     | Loss of Consortium(1 <sup>st</sup> claimant)                                                                                                   | 40,000/-                        | 44,000/-                          | Enhanced                               |
| 4      | Loss of love and affection converted as loss of love and affection (2 <sup>nd</sup> claimant) and loss of parental consortium(claimants 3 & 4) | 80,000/-                        | 1,32,000/-<br>(44,000 x 3)        | Enhanced                               |
|        | <b>Total</b>                                                                                                                                   | <b>12,97,000/-</b>              | <b>35,35,400/-</b>                | <b>Enhanced by<br/>Rs.22,38,400 /-</b> |

26. With the above modifications, the Civil Miscellaneous Appeal in CMA.No.697 of 2025 is allowed and the compensation awarded by the



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WEB COPY Tribunal at Rs.12,97,000/- is hereby enhanced to Rs.35,35,400/-. The appellants/claimants are entitled to interest at the rate of 7.5% per annum (excluding the delay period, if any) from the date of filing of the claim petition till the date of realization. The 2<sup>nd</sup> respondent /Insurance company is directed to deposit the enhanced award amount before the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment.

27. As far as apportionment is concerned, the claimants 3 and 4/ parents of the deceased are entitled to Rs.3,00,000/- each. The minor 2<sup>nd</sup> claimant/ son of the deceased is entitled to Rs.14,00,000/- and the 1<sup>st</sup> claimant/wife of the deceased is entitled to Rs.15,35,400/-

28. The 2<sup>nd</sup> appellant/2<sup>nd</sup> claimant being minor, his respective share in the award amount is directed to be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme initially **for a period of three years**, which shall be renewed periodically until he attains majority. The 1<sup>st</sup> appellant/1<sup>st</sup> claimant, being the Natural Guardian of the minor 2<sup>nd</sup>



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WEB COPY claimant, is permitted to withdraw the interest accrued thereon in the said

Fixed Deposit Account **once in three months** and the same shall be used for the welfare of the minor 2<sup>nd</sup> claimant. The claimants 1, 3 and 4 are entitled to withdraw their share of compensation amount, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The appellants are directed to pay the applicable additional court fee on the enhanced award amount. No costs.

29. In CMA.No.698 of 2025, the claimants pleaded that the deceased was owning a power loom and was earning a sum of Rs.30,000/- per month. In view of the discussions made earlier, the notional income is fixed at Rs.16,500/-. The age of the deceased is mentioned as 35 years in post-mortem report marked as Exhibit P19. Therefore, the claimants are entitled to 40% enhancement towards future prospects. The applicable multiplier is 16. Since there are five claimants, one-fourth of the amount has to be deducted towards personal expenses of the deceased. Therefore, the loss of dependency is Rs.33,26,400/-.



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**16,500 x 1.4 x 12 x 16 x 3 /4= Rs. 33,26,400.**

30. In addition to the above said amount, the claimants are entitled to non-pecuniary damages with the enhancement of 10% as per the law settled in ***Pranay sethi*** case. In the case on hand, the accident had taken place after three years from the date of pronouncement of the judgment in ***Pranay sethi*** case. Therefore, this Court is inclined to grant 10% enhancement towards non-pecuniary damages as laid down in ***Pranay sethi*** case. In that case, the first claimant is entitled to Rs. 44,000/- towards loss of consortium (wife). The 2<sup>nd</sup> and 3<sup>rd</sup> claimants are entitled to Rs.44,000/- each towards loss of love and affection. The claimants 4 and 5 are entitled to Rs.44,000/- each under the head loss of parental consortium. In all, the claimants are entitled to Rs.35,79,400/-

31. In view of the discussions made earlier, the award passed by the Tribunal in MCOP.No.808 of 2021 is modified as follows:-

| Sl. N | Description | Amount awarded by | Amount awarded by | Award confirmed or |
|-------|-------------|-------------------|-------------------|--------------------|
|-------|-------------|-------------------|-------------------|--------------------|



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| o  |                                                                                                                                                                                            | <b>Tribunal<br/>(Rs)</b> | <b>this Court<br/>(Rs)</b> | <b>enhanced or<br/>granted</b>        |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------|---------------------------------------|
| 1. | Loss of dependency                                                                                                                                                                         | 10,80,000/-              | 33,26,400/-                | Enhanced                              |
| 2. | Funeral Expenses<br>converted as Funeral<br>expenses and loss of<br>estate                                                                                                                 | 25,000/-                 | 33,000/-                   | Enhanced                              |
| 3. | Loss of<br>Consortium(1 <sup>st</sup><br>claimant)                                                                                                                                         | 40,000/-                 | 44,000/-                   | Enhanced                              |
| 4  | Loss of love and<br>affection converted as<br>loss of love and<br>affection ( claimants 2<br>& 3) and loss of<br>parental<br>consortium(4 <sup>th</sup> and 5 <sup>th</sup><br>claimants ) | 1,00,000/-               | 1,76,000/-<br>(44,000 x 4) | Enhanced                              |
|    | <b>Total</b>                                                                                                                                                                               | <b>12,45,000/-</b>       | <b>35,79,400/-</b>         | <b>Enhanced by<br/>Rs.23,34,400/-</b> |

32. With the above modifications, the Civil Miscellaneous Appeal in CMA.No.698 of 2025 is allowed and the compensation awarded by the Tribunal at Rs.12,45,000/- is hereby enhanced to Rs.35,79,400/-. The appellants/claimants are entitled to interest at the rate of 7.5% per annum (excluding the delay period, if any) from the date of filing of the claim petition till the date of realization. The 2<sup>nd</sup> respondent /Insurance company



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WEB COPY is directed to deposit the enhanced award amount before the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment.

33. It is stated that 5<sup>th</sup> claimant/father of the deceased died subsequent to the passing of the award. Therefore, his benefit of estate will go to claimants 2 to 4 in their capacity as legal representatives of deceased 5<sup>th</sup> claimant. As far as apportionment is concerned, the 4<sup>th</sup> claimant/ mother of the deceased is entitled to Rs.4,00,000/-. The minor claimants 2 and 3/ children of the deceased are entitled to Rs.8,00,000/- each and the 1<sup>st</sup> claimant/wife of the deceased is entitled to Rs.15,79,400/-

34. The 2<sup>nd</sup> and 3<sup>rd</sup> appellants/2<sup>nd</sup> and 3<sup>rd</sup> claimants being minors, their respective share in the award amount is directed to be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme initially **for a period of three years**, which shall be renewed periodically until they attain majority. The 1<sup>st</sup> appellant/1<sup>st</sup> claimant, being the Natural Guardian of the minor 2<sup>nd</sup> and 3<sup>rd</sup> claimants, is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account **once in three months** and the same shall be used for the welfare of the minor 2<sup>nd</sup> and 3<sup>rd</sup>



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claimants. The claimants 1 and 4 are entitled to withdraw their share of compensation amount, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The appellants are directed to pay the applicable additional court fee on the enhanced award amount. No costs.

35. In view of the above discussions, all the civil miscellaneous petitions are allowed. No costs.

**03.04.2025**

Index:Yes/No  
Internet:Yes/No  
nr

**To**

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WEB COPY 2. The Section Officer,  
VR Section,  
High Court, Madras.



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**S.SOUNTHAR, J.**

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