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CMA No.447 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 19.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.447 of 2025 and
CMP No.3230 of 2025

National Insurance Company Limited,
Bangalore Division-1, Third floor,
Unity Building, Annex, No.72,
Mission Road, P.B.No.2701,
Bengaluru, Karnataka 560 027.

... Appellant

Vs.

1. Rameshkumar
2. Valarmathi
3. Premavathi

4. Vinod Kumar

5. Perfect Products, M/s Perfect Products,
S.F.No.733/7, East Street,
Muthu Goundanpudur Road,
Neelambur, Coimbatore 641 062.

5. The New India Assurance Company Limited,
No.133-D, Trichy Road, Sulur, Coimbatore

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act to set aside the judgment and decree dated 18.10.2024 made in MCOP No.67 of 2023 on the file of the Exclusive Motor Accident Claim Tribunal, Dharmapuri.



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For Appellant : Mr.S.Vadivel

For Respondents : Mr.S.Udayakumar, for R1 to R3

JUDGMENT

Aggrieved by the award passed by the Tribunal, the insurance company has filed the present appeal.

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

3. It is the case of the claimants that on 16.10.2022, the son of the claimants 1 and 2 and the brother of the third claimant, namely Ravikumar died in a road accident. It is the case of the claimants that the deceased was riding his motorcycle on Darmapuri- Salem National High Road and while he approached Iyyanarappan koil, he had overtaken an Ashok Leyland lorry, which was plying in front of his vehicle on the right hand side. At that point of time, a car belonging to the first respondent and insured with the second respondent came from the behind in a rash and negligent manner and hit against the two wheeler of the deceased. As a result of accident, the deceased fell down



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from his vehicle and sustained grievous injuries and subsequently, he died in the hospital. Hence, the claimants preferred a claim petition seeking compensation of Rs.30,00,000/-

4. The appellant herein filed counter denying the negligence on the part of the car. It was also stated in the counter that the accident had occurred only due to the negligence on the part of the driver of the lorry.

5. In the counter filed by the insurer of the lorry, namely New India Assurance Company Limited, it was claimed that there was no negligence on the part of the driver of the lorry and the accident had occurred only due to the negligence on the part of the driver of the motorcycle as well as the driver of the car, insured with the appellant herein.

6. Based on the evidence available on record, the Tribunal fixed 70% contributory negligence on the part of car and 10% on the part of the driver of the lorry and 20% on the part of the deceased. The



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amount payable to the claimants was quantified at Rs.31,45,000/- and after deducting 20% of the compensation amount towards contributory negligence on the part of the deceased, the amount payable to the claimants was quantified at Rs.25,16,000/-. The insurer of the car/appellant herein was directed to pay 70% of the compensation amount and the New India Assurance Company limited, insurer of the lorry was directed to pay 10% of the compensation amount. Aggrieved by the direction to the appellant to pay 70% of the compensation amount to the claimants, it has come before this court by filing the present appeal.

7. The learned counsel for the appellant would submit that the deceased died as bachelor, however, the Tribunal committed a serious error in deducting only 1/3 amount towards his personal expenses.

8. The learned counsel for the claimants would submit that since there were three claimants at the time of accident, the Tribunal was justified in deducting 1/3 amount towards personal expenses of the deceased.

9. The Hon'ble Supreme Court, in *Sarla Verma case*, clearly



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held that in the case of death as a bachelor, 50% should be deducted towards personal expenses of he deceased. Therefore, the Tribunal was not justified in deducting 1/3 towards personal expenses and hence, after deducting 50%, loss of dependency is fixed at Rs.22,68,000/- (15,000 x 1.4 x 12 x 18 x 1/2).

10. The compensation awarded by the Tribunal under the head filial consortium, loss of estate, funeral expenses are affirmed, as there is no arguments advanced on the above said aspects.

11. Accordingly the compensation awarded by the Tribunal is modified as under.

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	30,24,000	22,68,000	reduced
2.	Filial consortium	88,000	88,000	confirmed
3.	Loss of estate	16,500	16,500	confirmed
4.	Funeral expenses	16,500	16,500	confirmed
	Total	31,45,000	23,89,000	reduced by 7,56,000

12. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the total compensation awarded by the



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Tribunal at Rs.31,45,000/- is hereby reduced to **Rs.23,89,000/-** together with interest at 7.5% per annum, from the date of claim petition till the date of deposit.

13. From the above compensation of Rs.23,89,000/- now determined by this court, after deducting 20% amount of Rs.4,77,800/- towards contributory negligence on the part of the deceased, **the appellant is liable to pay 70% of compensation of Rs.16,72,300/-** and the insurer of the lorry, namely the New India Assurance Company Limited is liable to pay 10% of the compensation at Rs.2,38,900/-.

14. The appellant is directed to deposit the above said 70% of the award amount of Rs.16,72,300/- along with interest and costs, less the amount already deposited, if any, within a period of **four weeks** from the date of receipt of a copy of this judgment. On such deposit being made, the claimants shall be permitted to withdraw the compensation amount, in the same proportionate, as per the apportionment made by the Tribunal, along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.



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There shall be no order as to costs. Connected miscellaneous petition is closed.

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Index:Yes/No
Internet:Yes/No
mst

To

1. The Presiding Officer,
Exclusive Motor Accident Claim Tribunal,
Dharmapuri.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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