



WEB COPY

CMA No.1939 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CMA No.1939 of 2024
and CMP No.15129 of 2024**

1.X.Antony Suresh

2.A.Xavier

Appellant(s)

Vs

1.Lakshmi

2.Jothi

3.Gnanasampantham

4.Minor Sulochana

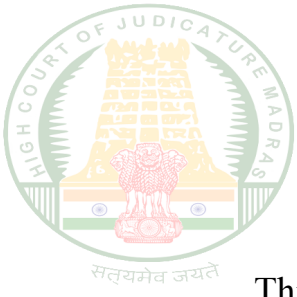
Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the award passed in M.C.O.P.No.327 of 2019 on the file of the IV Additional District & Sessions Judge, Bhavani/Motor Accident Claims Tribunal, Erode District dated 11.11.2022 and to set aside the same.

For Appellant(s): Mr.B.Kumarasamy

For Respondent(s): Mr. C.Kulanthaivel for R1 to R4



JUDGMENT

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This appeal is filed by the appellants challenging the order dated 11.11.2022 passed in M.C.O.P.No.327 of 2019 on the file of Motor Accidents Claims Tribunal/Additional District and Sessions Judge, Bhavani.

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

3.The petitioners are the claimants, the first respondent is the driver and the second respondent is the owner of the vehicle before the Tribunal.

4.The brief facts of the case are as follows:

According to the petitioners, on 04.03.2019 at about 07.00 A.M. Chinnasamy (deceased) was riding his two wheeler bearing Registration No.TAQ 0391 from Sembulichampalayam to Athani Main Road towards North to South near Sembulichampalayam Pirivu, at that time, the first respondent



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drove Ford Figo Car bearing Registration No.TN-36-S-5969 in a rash and negligent manner and hit against the two wheeler and caused the accident. Due to the accident, the said Chinnasamy sustained multiple head injuries all over his body. Immediately after the accident, he was taken to the Government Hospital, Anthiyur for first aid treatment and he was taken to Senthil Multi Speciality Hospital, Erode for further treatment, then, he was taken to Ganga Hospital Coimbatore and thereafter, he was taken to the Government Medical College Hospital, Coimbatore but he succumbed to injuries on 22.03.2019. The petitioner filed a claim petition before the Tribunal in M.C.O.P.No.327 of 2019 for compensation, the Tribunal awarded a sum of Rs.11,35,590/- as compensation after deducting 40% negligence. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellants submitted that though the deceased was not having driving license and not wearing helmet at the time of the accident, the Tribunal fixed 60% contributory negligence on the part of the appellants, which is very high and unsustainable. Hence, he prayed for appropriate orders.



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6.Learned counsel appearing for the respondents submitted that the Tribunal already deducted 40% negligence on the deceased and awarded a meagre compensation and hence, no interference is required by this Court. Hence, he prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellants, learned counsel for the respondents and perused the materials available on record.

8.Before the Tribunal, third petitioner was examined as PW1, Mr.Selvaraj was examined as PW2, Mr.Mariappan was examined as PW3 and on the side of the petitioners, 14 documents were marked as Exs.P1 to P14. On the side of the respondents, the respondents were examined as RW1 & RW2, and no document was marked.

9.On perusal of the records, it is seen that the petitioner was aged 45 years and was working as a coolie at the time of the accident. The Tribunal held that the deceased was not having driving license and not wearing helmet at the time of the accident.

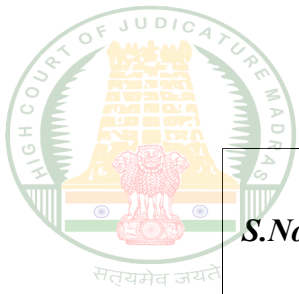


10. It is submitted by the learned counsel for the appellants that the Tribunal applied 14 multiplier for arriving compensation for loss of dependency is erroneous and it is further submitted that the correct multiplier is 13 and accordingly, this Court is inclined to apply the same.

11. Considering facts and circumstances of the case and submissions made by the learned counsel on either side, this Court is inclined to modify the award in the following manner:

(Rs.8437.50 x 12 x 13 = Rs.13,16,250/-)

<i>S.No.</i>	<i>Description</i>	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss of dependency	14,17,500/-	13,16,250/-
2	Spousal consortium to 2 nd petitioner	40,000/-	40,000/-
3	Parental and filial consortium to 1 st , 3 rd and 4 th petitioner	1,40,000/-	1,40,000/-
4	Medical bills	2,57,650/-	2,57,650/-
5	Loss of estate	15,000/-	15,000/-
6	Funeral Expenses	15,000/-	15,000/-
7	Transportation	7,500/-	7,500/-



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S.No.	Description	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
	Total	18,92,650/-	17,91,400/-
	40% negligence	7,57,060/-	8,95,700/- (50% negligence)
	Amount after deducting negligence	11,35,590/-	8,95,700/-

12.The respondents/claimants are entitled to total compensation of Rs.8,95,700/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

13.The appellants are directed to deposit 50% of the amount modified by this Court before the Tribunal if not deposited earlier, within a period of 8 weeks from the date of receipt of a copy of this judgment. On such deposit being made, the respondents/claimants 1 to 3 are permitted to withdraw their respective share along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. If the fourth respondent/claimant is



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still minor, her share shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until she attains majority and the interest derived from out of the said share of the minor shall be paid to the first respondent/mother every quarter to be utilized for the welfare of the said minor. The other directions issued by the Tribunal with regard to the mode of payment of compensation and apportionment remain unaltered.

14.The Civil Miscellaneous Appeal is disposed of with the above terms.

No costs.

30.07.2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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T.V.THAMILSELVI, J.

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To

1.IV Additional District & Sessions Judge,
Bhavani/Motor Accident Claims Tribunal, Erode District.

2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.

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