



WEB COPY

CMA No. 1369 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1369 of 2025

1. PALANIAMMAL

W/o (L) Maruthamuthu, No.57, Nannai,
Nannai East, Perambalur.

2. Neelavathi

W/o. Subramanian, D/o (L)
Maruthamuthu, No.4/338, Kilakku
Street, Athiyur (North) Perambalur.

3. Ganesan

S/o. (L) Maruthamuthu, No.2/68, East
Street, Nannai, Nannai (East),
Perambalur.

4. Devendran

S/o (L) Maruthamuthu, No.57, North
Street, Nannai, Nannai (East),
Perambalur, Nannai (East), Perambalur.

5. Gowri

W/o Prabhu, D/o (L) Maruthamuthu,
No.4/240, East Street, Athiyur South,
Perambalur.

Appellant(s)



Vs

1. G. Elayaraja

S/o Govindaraj, No.4/1018,
Chinnaparavai, Paravai Post, Kunnam
Taluk, Perambalur District - 621212.

2. The Branch Manager

M/s The United India Insurance Co Ltd,
No.50 A Pallivasal Street, Perambalur.

Respondent(s)

CMA No. 1369 of 2025

PRAYER

To set aside the order and enhancement the award amount passed by the Motor Accidents Claims Tribunal Judge/Principal District Judge, Perambalur by its Judgment dated 29.10.2024 and made in MCOP No.158/2022.

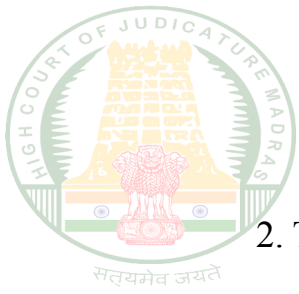
CMA No. 1369 of 2025

For Appellant(s): C.Vidhusan

For Respondent(s): Ms.I.Malar For R2 R1 -
Dispensed With

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to set aside the order and for enhancement of the award amount passed by the Motor Accidents Claims Tribunal Judge/Principal District Judge, Perambalur, (in short "tribunal") by its Judgment dated 29.10.2024 and made in MCOP No.158 of 2022.



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2. The brief facts of the case:

On 08.04.2021, when one Maruthamuthu was riding his bicycle on Veppur-Labbaikudikad Road from West to East keeping his extreme left side and at about 08.00 p.m., when the said Maruthamuthu was proceeding near Ragavendra School, Nannai Village, Perambalur, at that time tractor bearing registration No. TN 55 H 3307 was proceeding along with its trailer bearing Registration No. TN 45 W 3727 & TN 45 Y 9145 in the opposite direction in a rash and negligent manner dashed against the said Maruthamuthu cycle. Due to which Maruthamuthu sustained injuries died on spot. Thereafter, the Claimants filed the petition before the tribunal claiming compensation. The second respondent Insurance company contested the case by filing counter. ON considering oral and documentary evidence, the tribunal awarded a sum of Rs.5,58,150/- as compensation.

3. The learned counsel for the claimants submit that the tribunal has fixed notional income of the deceased as Rs.15,973/- which is very meagre and also it has fixed 50% contributory negligence upon the deceased which is erroneous. Further, he submits that as per the complaint, FIR was registered against the



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driver of the tractor, who driven the vehicle in a rash and negligent manner and dashed against the deceased, who was riding the bicycle at the time of the accident despite that the tribunal has fixed 50% contributory negligence upon the deceased by holding that when the deceased attempted to cross the road negligently thereby the accident was happened. Further, he pointed out that as per the FIR, the driver of the vehicle alone was charged and there is no allegation against the deceased. But, the tribunal has erroneously fixed 50% contributory negligence on the side of the deceased as such is erroneous and liable to set aside.

4. The learned counsel for the insurance company submits that the as per rough sketch/Ex.X1, at the time of accident, the deceased has negligently crossed the road so there is a negligence on the side of the deceased. So, the tribunal rightly fixed 50% contributory negligence on the side of the deceased which needs no interference. Hence, he prays to dismiss this appeal.

5. Considering the submissions on either side, the fact reveals that at the time of the accident, the deceased was aged about 56 years, who was riding a bicycle and the tractor was dashed against him thereby the deceased sustained



fatal injuries. The tribunal has fixed 50% contributory negligence upon the deceased by holding that as per Ex.X1/Rough sketch the deceased was attempted to cross the road negligently which was cause for the accident.

6. On perusal of the records, it reveals that the eye witness was examined on the side of the claimant and on the other side the respondent examined witness and rough sketch was marked. As per the rough sketch, there is a possibility that negligence was on the part of the deceased. However, the 50% contributory negligence fixed upon the deceased is highly excessive. Hence, this Court is inclined to reduce the contributory negligence fixed by the tribunal upon the deceased from 50% to 10%. Accordingly, the claimants are entitled to Rs.10,04,700/-. Except above modification, the award passed by the tribunal in other heads remain unchanged. The 2nd respondent is directed to deposit the said amount together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP No.158/2022 on the file of the Motor Accidents Claims Tribunal Judge/Principal District Judge, Perambalur, within a period eight weeks from the date of receipt of a copy of this judgement and recover the said amount from the first respondent.



On such deposit, the appellants/claimants are permitted to withdraw the award

amount by making formal application before the Tribunal. The respondent may

deduct the amount, if any amount has already deposited before the tribunal. In

so far as the enhanced compensation is concerned, the deficit court fee, if not

paid, shall be paid by the claimant(s).

7. With the above direction, the Civil Miscellaneous Appeal is partly

allowed. No costs.

24-06-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

1.G. Elayaraja

S/o Govindaraj, No.4/1018,
Chinnaparavai, Paravai Post, Kunnam
Taluk, Perambalur District - 621212.

2.The Branch Manager

M/s The United india Insurance Co Ltd,
No.50 A Pallivasal Street, Perambalur.

3. The Section officer, V.R Section,
High Court, Madras.

4. The Motor Accidents Claims
Tribunal Judge/Principal District Judge,
Perambalur



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T.V.THAMILSELVI J.
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