



C.M.A.No.1785 of 2024

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T.V.THAMILSELVI, J.

Today, this case is listed under the caption, “For Being Mentioned” at the instance of the learned counsel appearing for the Insurance Company.

2. The learned counsel appearing for the Insurance Company submitted that this Court vide Common Judgment dated 24.07.2025, partly allowed C.M.A.No.1785 of 2024 and dismissed C.M.A.No.3097 of 2023. In Paragraph No.9 of the said judgment, particularly, in the 12th line, this Court has recorded that the claimants are entitled to Rs.27,21,600/- (18,000 + 7,200 x 12 x 18 – 1/2) under the head, “Loss of Dependency”, but, in the 11th line of very same paragraph, the notional monthly income of the deceased has been wrongly typed as Rs.22,000/-. Therefore, the learned counsel for the Insurance Company prayed that the said typographical error may be rectified.

3. The learned counsel appearing for the claimants submitted that he has no serious objection for rectifying the aforesaid typographical error crept-in, in the Common Judgment dated 24.07.2025 passed in C.M.A.Nos.1785 of 2024 & 3097 of 2023.

4. Considering the submissions made by the learned counsel on either side, this Court is inclined to rectify the typographical error crept-in



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in 11th line of Paragraph No.9 of the Common Judgment dated 24.07.2025 passed in C.M.A.Nos.1785 of 2024 & 3097 of 2023. Accordingly, the same is rectified and Paragraph No.9 of the said judgment reads as follows:

“9. In the said petition, the Insurance Company took defence that accident was happened due to the negligence of the Gokul Prasad who was driven the vehicle and as per the final report, he was driven the vehicle at the time of the accident. Therefore, the material records as well as counter objection filed by the Insurance Company itself shows that they accepted that the Gokul Prasad has driven the vehicle at the time of the accident. Therefore, the observations made by the tribunal that the accident happened due to the rash and negligent driving of the deceased is set aside and conversion of the case to Section 163A is set aside. The claimants are entitled to get compensation under Section 166(1) of M.V.Act. The deceased is B.E. Graduate. Hence, this Court is inclined to fix Rs.18,000/- as notional monthly income of the deceased. Accordingly, the claimants are entitled to Rs.27,21,600/- (18,000 + 7,200 X 12 X 18 – 1/2) under the head, “Loss of Dependency”. Further, this Court is inclined to enhance Rs.80,000/- under the head, “Loss of Consortium” from Rs.50,000/-. Except above modification, the award passed by the tribunal in other heads remain unchanged.”

5. In all other aspects, the Common Judgment dated 24.07.2025 passed in C.M.A.Nos.1785 of 2024 & 3097 of 2023 shall remain unaltered. Registry is directed to issue a fresh judgment copy to all concerned, after carrying out the aforesaid correction.

14.10.2025

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T.V.THAMILSELVI, J.

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C.M.A.No.1785 of 2024

14.10.2025



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1785 of 2024

AND

CMA NO. 3097 OF 2023,CMP NO. 14204 OF 2024

1. Bajaj Allianz General Insurance Co
Ltd
Situat at Channai

Appellant(s)

Vs

1. GANGADHARAN
S/o. Periyasamy, Moraipathai Street,
Kallakurichi Taluk.

2.Tamilselvi
W/o. Gangadharan, Moraipathai
Street, Kallakurichi Taluk.

3.Kumari
W/o. Sarathy, No. 137, Kattukottai,
Neelangalam, Kallakurichi

Respondent(s)

CMA No. 3097 of 2023

1. GANGADHARAN
s/o.Periyasamy, res at Moraipathai
Street, Kallakurichi Taluk



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2. Tamilselvi
w/o. Gangadharan, res at Moraipathai
Street, Kallakurichi Taluk

Appellant(s)

Vs

1. KUMARI
w/o. Sarathy, No.137, Kattukottai,
Neelamangalam, kallakurichi

2. Bajaj Alliance General Insurance
Co. Ltd.
Old No.276 and 277, New No.497
and 498, Isana Kattima Building, 5th
Floor, Poonamallee High road, Opp.
Tamil Nadu Pollution Control Board,
Arumbakkam, Chennai-106

Respondent(s)

CMA No. 1785 of 2024

PRAYER

To set aside the order and decree passed on dated 03.10.2023 made in MCOP NO. 186 of 2018 on the file of the Motor Accidents Claims Tribunal, (III Additional District Court) Villupuram @ Kallakurichi and render justice.

CMA No. 3097 of 2023

PRAYER

To enhancing the compensaton awarded in the Judgment and decree, dt. 03.10.2023, passed in MCOP No.186/2018, on the file of the Motor Accident Claims Tribunal, (III Additional District Court), Villupuram @ kallakurichi



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CMA No. 1785 of 2024

For Appellant(s): Mr.G.Vasudevan

For Respondent(s): Mr.Amar Dinesh Bhai Pandiya
For R 1 and 2

ORDER

CMA No. 1785 of 2024 has been filed to set aside the order and decree passed on dated 03.10.2023 made in MCOP NO. 186 of 2018 on the file of the Motor Accidents Claims Tribunal, (III Additional District Court) Villupuram @ Kallakurichi .

2. CMA No. 3097 of 2023 has been filed to set aside the order and decree passed on dated 03.10.2023 made in MCOP NO. 186 of 2018 on the file of the Motor Accidents Claims Tribunal, (III Additional District Court) Villupuram @ Kallakurichi. For the sake of convenience the parties are denoted as Insurance Company and Claimants.

3. On 14.05.2018 at about 00.30 hours while the deceased was travelling in the vehicle bearing registration No. TN 15 T 0006 near kallakurichi bridge at that time the first respondent's driver drove the same in a rash and negligent manner and dashed against the bridge, thereby



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caused the death of deceased. Thereafter, the claimant filed the petition before the tribunal claimaimg compensation and insurance company contested the case by filing counter. After considering the oral and documentary evidence the tribunal awarded compensation. Challenging the award passed by the tribunal both the claimant and the insurance company filed these appeals.

4. The learned counsel for the Insurance Company submits that it is a case of own negligence, especially when the driver of the vehicle drove the car bearing registration NO. TN 15 T 0006 in a rash and negligent manner from kallakurichi to Needamangalam Road and dashed against the bridge and sustained fatal injuries are seriously disputed. Further, the tribunal has filed to note that EX.R1 the copy of the Motor Vehicle Inspector Report that the front right side of the car was heavily damaged and the glasses also broken and the deceased who was driving the car had sustained injuries in the ribs and steering wheel injury which would disclose that the deceased drove the vehicle at the time of the accident.

4.1. The Tribunal has failed to consider the evidence of RW1/Dr.



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Bharanidharan, who was categorically stated that the deceased who drove the car sustained steering wheel injury and succumbed to the same, thereby solely contributed to the accident, which will clearly established that it is a case of own negligence and not covered under Section 147 of M.V Act.

4.2.The Tribunal has failed to note that it is a case of own negligence and the insurance policy does not cover the owner of his representatives as per Section 147 M.V Act.

4.3. The tribunal has failed to note that it is a case of res ipso loquitor that is the accident speaks itself which will reveal that the car driver who was the owner of the vehicle was solely negligent in courting the accident and sustained injuries and therefore not covered under the policy of insurance.

4.4. The tribunal has failed to note that the evidence of RW1 Doctor who has categorically stated that the deceased died due to rib fractures and also steering wheel injury since he was on the wheels and therefore it is a clear case of own negligence which was clearly established by the insurance company.



5. By submitting the above grounds, the learned counsel for the appellant submits that tribunal has erroneously awarded compensation under Section 163 A of M.V Act which is not applicable to the facts of the case. Therefore he prayed to to set aside the award passed by the tribunal.

6. By way of reply, the learned counsel for the claimants submit that around midnight accident was happened when the car was dashed against over bridge due to which deceased died on the spot. Against the driver of the car FIR was registered and final report was filed against him but without considering the same tribunal converted the claim from Section from 166(1) to Section 163-A of M.V Act and passed such compensation as such is erroneous. Challenging the said order the claimant filed the appeal in CMA No. 3097 of 2023 to enhance the compensation. Hence, he prayed to enhance the compensation.

7. The learned counsel for the Insurance company submits that as per the post mortem report deceased died due to the steering wheel injury such type injury could be sustained only if the deceased driving the vehicle at the time of the accident. Therefore, it reveal that the deceased was driving the



vehicle he is responsible for the accident and on is his own negligent accident happened hence he is not entitled to any claim. But the Tribunal has erroneously converted claim into Section 163-A of M.V Act passed award. Further, he pointed out that as per the Motor Vehicle report/Ex.R1 damages on the right front side of the car which leading to the injuries sustained by the deceased and post mortem report clearly shows that the deceased was driving the car and same was rightly observed by the tribunal. But awarded compensation. Hence, he prays to set aside the award passed by the tribunal.

8. The learned counsel for the claimant relied the counter statement filed by the insurance company in MCOP No. 387 of 2018. In the counter statement Insurance company stating that as per the report of the police the entire accident was taken place due to the negligent of the driver of car namely Gokul Prasad which is extracted as below:

This respondent submits that the claim petition filed under Section 163A of M.V Act, 1988 is not at all maintainable as against this respondent. Hence, this respondent is not at all liable to pay compensation. If at all compensation to be paid, it shall be paid by the first respondent



alone,

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6. This respondent submits that the Petitioner claims to be earning Rs. 60,000/- per month by carrying on Business in the claims petition. Under Section 163-A, the annual income of the claimant should not be more than Rs. 40,000/- per annum. Hence, this petition is liable to be dismissed in limine.

7. The Petitioner is the son of the first respondent and he did not have proper driving license to become a professional driver. The Petitioner doing business as per the claim petition. Hence, he is not a paid driver of the first respondent as well as there is no employer-employee relationship between the petitioner and the first respondent. Thus, the Petitioner is not a third party and he is not covered by virtue of Provisions of Motor Vehicles Act, 1988 and by the terms and conditions of the Policy issued by this respondent. Hence, this respondent is not at all liable to pay compensation and claim as against this respondent is liable to be dismissed in limine



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8. *This respondent submits that the entire accident took place due to the negligence of the Petitioner alone. As per the FIR registered by the Kallakurichi Police Officials vide Cr. No. 346/18 dated 1-4-5-18, the entire accident took place due to the negligence of the petitioner alone. Under law, no man shall stand gained due to his own negligence. Hence, this petition is liable to be dismissed in limine as against this respondent.*

III) GENERAL DEFENCES:-

9. *This respondent submits that after proper investigation, the Kallakurichi Police Officials have filed the Chargesheet against the driver of the first respondent vehicle bearing Read No TN-15-T-0000 viz the petitioner. As the negligence has been clearly portrayed against the petitioner after proper investigation by the Police Officials, this respondent prays for dismissal of the claim petition as against this respondent*

9. In the said petition, the Insurance company took defence that accident was happened due to the negligence of the Gokul Prasad, who was driven the vehicle and as per the final report he was driven the vehicle at the time of the accident. Therefore, the material records as well as counter



objection filed by the insurance company itself shows that they accepted that the Gokul Prasad has driven the vehicle at the time of the accident.

Therefore, the observations made by the tribunal that the accident happened due to the rash and negligence driving of the deceased is set aside and conversion of the case to Section 163A is set aside. The claimants are entitled to get compensation under Section 166(1) of M.V Act. The deceased is B.E graduate. Hence, this Court is inclined to fix Rs.22,000/- as notional income of the deceased. Accordingly, the claimant is entitled to Rs.27,21,600/- (18,000+7,200x12x18-1/2) under the head of loss of dependency. Further, this Court is inclined to enhance Rs.80,000/- under the head of loss of consortium from Rs.50,000/-. Except above modification, the award passed by the tribunal in other head remain unchanged.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of income/dependency	Rs.4,98,960/-	Rs. 27,21,600/-
2.	Loss of estate	Rs.15,000/-	Rs.15,000/-
3.	Loss of consortium	Rs.50,000/-	Rs.80,000/-
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-
5.	Transportation charges	Nil	Nil
	Total	Rs.5,78,960/-	Rs. 28,31,600/-



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10. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to **Rs. 28,31,600/-**. The second 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. 186 of 2018 on the file of the Motor Accidents Claims Tribunal, (III Additional District Court) Villupuram @ Kallakurichi, within a period eight weeks from the date of receipt of a copy of this judgement. The claimants are entitled to share the compensation equally. On such deposit, the appellant/claimant is 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 CMA No. 3097 of 2023 is partly



allowed and CMA No. 1785 of 2024 is dismissed. No costs. Pending
petition, if any, is/are closed.

24-07-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Motor Accidents Claims Tribunal, (III Additional District Court)
Villupuram @ Kallakurichi
2. The Section Officer, V. R Section, High Court, Madras.



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T.V.THAMILSELVI J.
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**CMA No. 1785 of 2024
AND CMA NO. 3097
OF 2023,CMP NO.
14204 OF 2024**

24.07.2025