



WEB COPY

CMA No. 1244 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1244 of 2025

1. Kanniammal
W/o. Venkatachalam, Residing at
D.No.1/106, Pookulam, Udumalaipettai
Taluk, Tiruppur District

2.Venkatachalam
S/o. Aravandi Naicker, Residing at
D.No.1/106, Pookulam, Udumalaipettai
Taluk, Tiruppur District

Appellant(s)

Vs

1. SHANMUGARAJ
S/o. Vadaman, Residing at D.No.17/53,
Sakkarapatty, Valavanty Nadu Post,
Namakkal District

2.National Insurance Company Ltd.,
No.74A, Paramathy Road, Namakkal
-637 001

Respondent(s)

CMA No. 1244 of 2025

PRAYER

To enhance the award in the judgement and decree dated 24-08-2017 made in MCOP.No.109/2014, on the file of the MACT /Prl.Dist.Court, Namakkal.

For Appellant(s): Mr.T.S.Arthanareeswaran

For Respondent(s): Mr.S.Senthil Kumar For R2
R-1 Notice Dispensed With



JUDGEMENT

This Civil Miscellaneous Appeal has been filed to enhance the award in the judgement and decree dated 24-08-2017 made in MCOP.No.109/2014, on the file of the MACT /Prl.Dist.Court, Namakkal.

2. On 28.11.2013 at about 07.00 p.m. When the deceased Sathiskumar, Senthilkumar and Karuppusamy were travelling as a pillion rider in a two wheeler motorcycle bearing registration No. TN 42 X 0842 at the extreme left side of the road at near Nachipudur Bus stop on Kolli hills to kalappanaickenpatty main road, at the time the driver of lorry bearing registration No. TN 36 B 9475 drove the vehicle in a rash and negligent manner dashed against the two wheeler due to the which all the three persons sustained grievous injuries and died in the hospital. Thereafter the claimants/legal heirs of the deceased SathishKumar filed the petition before the Tribunal claiming compensation. The second respondent insurance company contested the case by filing counter. After considering the oral and documentary evidence, the tribunal awarded compensation. Challenging the quantum of compensation, the claimants filed this appeal.

3. The learned counsel for the appellant submits that the accident was solely happened due to the rash and negligence driving of the driver of the lorry but the tribunal has fixed 25% contributory negligence upon the deceased and also awarded very less amount in other heads. Hence, he prays to enhance the



compensation.

4. The learned counsel for the respondent/Insurance company submits that at the time of the accident three persons were travelling in the two wheeler and rider of the two wheeler rode the vehicle in rash and negligent manner suddenly turned the two wheeler thereby he invented the accident. Therefore the tribunal rightly fixed the contributory negligence which needs no interference.

5. On perusal of FIR, the fact reveals that on 18.12.2013 around 07.30 near Nachipudur Bus stop on Kolli hills to kalappanaickenpatty main road While the Sathiskumar, Senthilkumar and Karuppusamy were travelling in a two wheeler motorcycle bearing registration No. TN 42 X 0842 at the extreme left side of the road at near Nachipudur Bus stop on Kolli hills to kalappanaickenpatty main road, at the time the driver of lorry bearing registration No. TN 36 B 9475 drove the vehicle in a rash and negligent manner dashed against the two wheeler due to which all three persons sustained grievous injuries and died. As per FIR allegations negligence is upon the driver of the lorry. Admittedly, at the time of the accident three persons were travelled in the two wheeler and died due to fatal injuries. But while awarding compensation the tribunal fixed 25% contributory negligence upon the deceased persons for the reason that three persons were travelling in the two wheeler at the time of the accident but there is no evidence produced on the side of the respondent that there was negligence on the part of the two wheeler and eyewitness also supported that at the time of the accident driver of the lorry



driven the lorry in a rash and negligent manner. Further, the rider of the two wheeler has possessed valid driving licence at the time of the accident. Hence, this Court is inclined to reduce the contributory negligence fixed upon the petitioners from 25% to 10%. Further, at the time of the accident all the petitioners were worked in the crushing factory. Hence, this court is inclined to fix Rs.12,000/- as notional income of the appellants. Further, the amount awarded in other head is very meagre. Hence, this Court is inclined to fix Rs.10,000/- for loss of estate and Rs.10,000/- for funeral expenses and Rs.80,000/- for love and affection and Rs.10,000/- for transportation. The appellant are entitled to Rs.18,14,400/- (Rs.12000+4800x12x18-1/2) under the head of loss of dependency. Except above modification the award passed by the tribunal is remain unchanged.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of income/dependence	Rs. 6,48,000/-	Rs.18,14,400/-
2.	Loss of estate	Rs.1,000/-	Rs.10,000/-
3.	Love and affection	Rs.5,000/-	Rs.80,000/-
4.	Funeral expenses	Rs.5,000/-	Rs.10,000/-
5.	Transportation charges	Rs.2,000/-	Rs.10,000/-
	Total	Rs.6,61,000/-	Rs.19,24,400/-

6. After deducting 10% towards contributory negligence, the appellants are entitled to Rs. 17,31,960/- In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.17,31,960/-. The first appellant is entitled to Rs. 9,31,960/- and the second is entitled to Rs. 8,00,000/.



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. 109 of 2014 on the file of the Motor Accident Claims Tribunal, Principal District Court, Namakkal, within a period eight weeks from the date of receipt of a copy of this judgement. 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. The appellant shall pay appropriate Court fees for the enhanced compensation.

7. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

24-07-2025

pbl

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Motor Accident Claims Tribunal, Principal District Court, Namakkal.
2. The Section officer, V. R Section, High Court, Madras.



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T.V.THAMILSELVI J.

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