



C.M.A.No.1274 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.11.2025**

CORAM

THE HONOURABLE MRS JUSTICE R. KALAIMATHI

C.M.A.No.1274 of 2024

1. Renukadevi

2. Elankumaran

3. Minor Lakshidhan

(Minor is represented by his mother Renukadevi / appellant 1 herein)

.. Appellants / Petitioners

Vs.

1. K.Rajendran

2. United India Insurance Co. Ltd., (exonerated),
represented by its Branch Manager,
Perambalur.

3. Bajaj Allianz General Insurance Co. Ltd.,
G.E Plaza, Airport Road, Yerwada,
Pune.

(The 3rd respondent was impleaded as per order passed in I.A.Nos.1976 / 2018 to 1983 / 2018 dated 23.08.2018)

..Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the Civil Miscellaneous Appeal and for enhancement of the award passed by the Motor Accident Claims Tribunal / Principal District Judge, Perambalur by its Judgment dated 29.11.2023 made in M.C.O.P.No.300 of 2018.



C.M.A.No.1274 of 2024

For Appellants : Mr.C.Vidhusan
For R1 : Mr.A.Saravanan
For R2 : Ms.C.Harini
for M/s.M.B.Gopalan Associates
For R3 : Mr.J.Michael Visuvasam
for M/s.R.V.Sivaraj

JUDGMENT

Not being satisfied with the Award dated 29.11.2023 made in M.C.O.P.No.300 of 2018 on the file of the Motor Accidents Claims Tribunal / Principal District Court, Perambalur, the legal representatives of the deceased minor child have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. The case of the claimants is that the petitioners on 06.02.2017 at about 16.45 hours, the claimant's husband Elankumaran drove Car bearing Registration No.TN 22 BH 4214, which belongs to the 1st respondent, insured with the 3rd respondent, along with their family members proceeding from north to south along Thuraiyur-Musiri main road and the Car was nearing one Palaniyappan's house at Jambunathapuram, as the Car was driven in a rash



and negligent manner and in the result, the car went out of the control of the driver and dashed upon the tamarind tree. Due to the said impact, the claimant's 1 and 2 minor daughter Dhanurika, two years old succumbed to the injuries. The claimants and another son minor Lakshidhan sustained serious injuries. Therefore, the 1st respondent as the owner of the vehicle and the 3rd respondent who is the insurer of the same are liable to pay compensation to the petitioner herein.

4. Details of counter of 1st respondent would state in brief:-

The 1st respondent had insured his vehicle with the 3rd respondent in Policy No. OG-17-1501-1081-00026418 for a period from 14.12.2016 to 17.12.2017. Tvl.Elankumaran purchased the above said vehicle and took delivery of the vehicle from the 1st respondent on 26.01.2017. The accident took place due to the rash and negligent act of the above said person and a case was registered against him.

5. Details of counter of 3rd respondent is stated in brief:-

The interest of the 1st respondent in vehicle No.TN 22 BH 4214 was covered at the material time under the policy of insurance issued by the 3rd respondent. The father of the deceased minor child is a tortfeasor and he is not a third party and he is not entitled for any share.



6. At trial, on the claimant's side, two witnesses were examined and thirteen documents were marked. On the side of the respondents, one witness was examined and photo copy of the Insurance Policy Certificate of the Car was marked as Ex.R1.

7. The Tribunal upon consideration of the oral and documentary evidence and after hearing the arguments advanced by either side, granted compensation of Rs.5,20,000/- under various heads is tabulated hereunder:-

Sl. No.	Description	Amount awarded by Tribunal (in Rs.)
1	For Loss of Dependency	Rs.4,50,000/-
2	For Filial Consortium	Rs.40,000/-
3	For Funeral Expenses	Rs.15,000/-
4	For Loss of Estate	Rs.15,000/-
	Total	Rs.5,20,000/-

8. The learned counsel for the appellants would vehemently contend that the notional income of the minor child was fixed as Rs.30,000/- is less.

9. Per contra, Mr.J.Michael Visuvasam, learned counsel appearing for the 3rd respondent / Baja Allianz General Insurance Company would vehemently contend that the amounts granted under different heads by the Tribunal are quite reasonable and sought to confirm the same.



C.M.A.No.1274 of 2024

10. It is relevant to refer to the observations made by the Hon'ble Supreme Court in *Meena Devi Vs. Nunu chand Mahta @ Nemachand Mahta and others* in S.L.P.(Civil)No.5345 of 2019 reported in (2023) 1 SCC 204; a child Bankee Bihari, aged about 12 years on the date of accident, that is, on 29.07.2003, while playing in front of his house, was dashed by the Commander Jeep bearing registration No.JH-11-A-6894 and died on the way while being taken to the hospital in Dhanbad. On claim petition, the Motor Accidents Claims Tribunal, Giridih granted compensation to the tune of Rs.1,50,000/- in lumpsum. On assailing the inadequacy of such award by filing C.M.A.(MD)No.16 of 2013, the High Court of Jharkhand at Ranchi enhanced the amount of compensation to Rs.2,00,000/- equivalent to the value of the claim made in the claim petition. The Hon'ble Supreme Court, after analysing the judgment in *Taff Vale Rly vs. Jenkins* reported in 1913 AC 1, granted compensation of Rs.5,00,000/-.

11. In *Kishan Gopal and others Vs. Lala and others*, reported in 2013 (2) TN MAC 358, the Hon'ble Supreme Court fixed the notional income of minor child as Rs.30,000/- per month. Under conventional heads, a sum of Rs.50,000/- was granted. The total compensation of Rs.5,00,000/- was granted. Date of accident is 06.02.2017. Due to the passage of time, in order to have effective justice, notional income of the deceased is fixed as Rs.5,000/- per month.



WEB COPY

12. As per the law laid down by the Apex Court in *Smt.Sarla verma and others vs. Delhi Corporation and another*, reported in 2009 (2) TNMAC 1 (SC), the relevant multiplier to be adopted is "15 m". For computing loss of dependency, the following formula emerges:-

$$\begin{aligned}\text{Loss of Dependency} &= \text{Rs.5000/-} \times 12 \times 15 \\ &= \text{Rs.9,00,000/-}\end{aligned}$$

13. As regards the other heads, the amounts granted by the Tribunal appear to be reasonable and acceptable and hence, it needs no interference by this Court. The amounts granted under various heads after rework is tabulated and given hereunder.

Sl. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	For Loss of Dependency	4,50,000/-	9,00,000/-	Enhanced
2	For Filial Consortium	40,000/-	40,000/-	Confirmed
3	For Funeral Expenses	15,000/-	15,000/-	Confirmed
4	For Loss of Estate	15,000/-	15,000/-	Confirmed
	Total	5,20,000/-	9,70,000/-	Enhanced

14. Thus, the compensation awarded by the Tribunal is enhanced from Rs.5,20,000/- to Rs.9,70,000/- which would carry interest at the rate of 7.5% per annum from the date of petition (excluding the period of default if any).



WEB COPY

15. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.5,20,000/- to Rs.9,70,000/-.

(iii) The 3rd respondent / Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., Rs.9,70,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit (excluding the period of default if any) to the credit of M.C.O.P.No.300 of 2018 on the file of Motor Accident Claims Tribunal / Principal District Court, Perambalur, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) Out of the total compensation awarded by this Court, the 1st petitioner is entitled to Rs.8,00,000/- and the petitioner no.2 is entitled to Rs.85,000/- and petitioner no.3 / minor is entitled to Rs.85,000/- .

(v) On such deposit being made, the petitioners no.1 and 2 / claimants are permitted to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(vi) The share of the petitioner no.3 / minor shall be deposited in any one of the nationalized bank till the minor attains majority and the 1st appellant,



C.M.A.No.1274 of 2024

mother of the minor, namely, Renukadevi is permitted to withdraw quarterly interest from the said amount.

(vii) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required.

(viii) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

10.11.2025

(1/3)

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

Mac

Copy to

1. The Motor Accident Claims Tribunal / Principal District Court, Perambalur.
2. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



C.M.A.No.1274 of 2024

R. KALAIMATHI, J.

Mac

C.M.A.No.1274 of 2024

10.11.2025

(1/3)