



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1465 of 2025

1. Rakhi Bokaria

W/o.Late Sanjaih Bokaria, No.73/56,
Alsa Balmoral Apartments, Flat No.A-
3, 3rd Floor, Harrington Road, Chetpet,
Chennai 31.

2. Riddhi Bokaria

D/o.late Sanjaih Bokria, No.73/56, Alsa
Balmoral Apartments, Flat No.A-3, 3rd
Floor, Harrington Road, Chetpet,
Chennai 31.

3. Prayakass Bokaria

S/o.Late Sanjaih Bokaria, NO.73/56,
Alsa Balmoral Apartments, Flat No.A-
3, 3rd Floor, Harrington Road, Chetpet,
Chennai 31.

4. Manjula Devi Bokaria

W/o.Ranjit Singh Bokaria, NO.73/56,
Alsa Balmoral Apartments, Flat No.A-
3, 3rd Floor, Harrington Road, Chetpet,
Chennai 31.

5. Ranjit Singh Bokaria



S/o.late Chainroop Bokaria, NO.73/56,
Alsa Balmoral Apartments, Flat No.A-
3, 3rd Floor, Harrington Road, Chetpet,
Chennai 31.

Appellant(s)

Vs

1. Sri Ganesh Murugan Blue Metals
Rep.by Proprietor SF 268,
Pudhukkanalli, Karudaiyampalayam
Post, Aravakurichi Tk, Karur Dist,
Tamil Nadu 639 111.

2.National Insurance Company Ltd
Motor Third Party Claims Office,
No.66, Greams Road, Chennai 6.

3.G.Arunkumar
S/o.Gopal, Adi Dravidar St, Somur,
Karur 639 114.

Respondent(s)

CMA No. 1465 of 2025

PRAYER

To set aside the order of the Tribunal dated 26.9.2024 in the Claim Petition MCOP.No. 3034/2022 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

CMA No. 1465 of 2025

For Appellant(s): Mr.G. Balaji Prasad

For Respondent(s): Mrs.R.Sreevidhya For R2



JUDGEMENT

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This Civil Miscellaneous Appeal has been filed to set aside the order of the Tribunal dated 26.9.2024 in the Claim Petition MCOP.No. 3034/2022 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

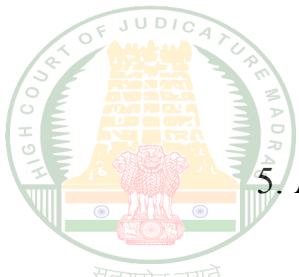
2. On 09.04.2022 at about 16.45 hours, while the deceased was driving his Honda Jazz Car bearing registration No. TN 01 AJ 9222 proceeding from Salem to Kanyakumari from North to South on Karur – Madurai Bypass Road, he stopped his car on the mud portion at Sadayappa Goundanur in front of Poongodi Tea stall for refreshment at that time lorry bearing registration No. TN 48 AH 1820 driven by its driver in a rash and negligent manner dashed against the deceased due to which the deceased sustained grievous injuries died on the same day. Thereafter, the claimants filed the petition before the tribunal claiming compensation. The second respondent contested the case by filing counter. After considering the oral and documentary evidence the tribunal awarded compensation. Challenging the award passed by the tribunal claimants filed this appeal.



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3. The learned counsel for the appellant submits that at time of the accident the deceased has stopped his car on the mud portion of the road at Sadayappa Goundanur in front of Poongodi Tea stall for refreshment after having refreshment when he returned to his car, the lorry belongs to the first respondent dashed against the deceased, due to which, he died therefore it is clear that the accident was caused due to the negligence of the driver of the lorry but without considering the above, the tribunal has fixed 20% negligence upon the deceased as if the deceased was negligent at the time of the accident. Further, the tribunal has awarded very meagre amount under others heads. Hence, he prays to enhance the compensation.

4. The learned counsel for the second respondent submits that the deceased was opening the driver's side door without noticing the vehicles approaching from behind. Therefore, there is negligence on the side of the deceased which was rightly appreciated by the tribunal fixed 20% negligence on the part of the deceased needs no interference.



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5. A perusal of the records, it reveals that after refreshment the deceased was attempting to enter into the car at that time he was hit by the lorry to disprove the same the respondent has not produced any evidence, without which under presumption the tribunal has fixed 20% contributory negligence on the part of the deceased as such is unwarranted and liable to be set aside.

5. In respect of notional income of the deceased, the learned counsel for the claimants argued that the deceased was doing business earned Rs.60,000/- per month and had paid income tax to that effect he produced the income tax returns statement for the year 2019-20, 2020-21/Ex.P8 but without considering the above, the tribunal has erroneously fixed Rs.17,000/- as notional income of the deceased as such is liable to be set aside.

6. On the other side, the learned counsel for the second respondent submits that deceased was said to be doing the real estate business in that business there is no possibility to earn income for entire months. Therefore, the tribunal has rightly fixed Rs.17,000/- as notional income of the deceased which needs no interference.



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7. Admittedly, the accident was happened in the year 2022 and as per the income tax return statement the deceased earned Rs.60,000/- per month, so also considering the cost of living at the time of the accident this Court is inclined to fix Rs.20,000/- as notional income of the deceased. Accordingly, the claimants are entitled to Rs.21,78,000/- under the head of loss of dependency. As discussed above there is no contributory negligence on the part of the deceased. Except above modification, the award passed by the tribunal under other heads remain unchanged.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of income/dependency	Rs.18,51,300/-	Rs.21,75,000/-
2.	Loss of estate	Rs.16,500/-	Rs.16,500/-
3.	Loss of consortium	Rs.2,20,000/-	Rs.2,20,000/-
4.	Funeral expenses	Rs.16500/-	Rs.16,500/-
5.	Transportation charges	Rs.10,000/-	Rs.10,000/-
	Total	Rs.21,14,300/-	Rs.24,38,000/-

8. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to **Rs. 24,38,000/-**. The 2nd respondent is directed to deposit the said amount - together with interest at the rate of 7.5% per annum



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from the date of claim petition to the date of realisation, to the credit of

MCOP.No. 3034/2022, on the file of the Motor Accidents Claims Tribunal,

Chief Judge, Court of Small Causes, Chennai., 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. In so far as the

enhanced compensation is concerned, the deficit court fee, if not paid, shall be

paid by the claimant(s).

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

08-07-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

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Pudhukkanalli, Karudaiyampalayam
Post, Aravakurichi Tk, Karur Dist,
Tamil Nadu 639 111.

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Karur 639 114.

4. The Motor Accidents Claims
Tribunal, Chief Judge, Court of Small
Causes, Chennai.

5. The Section Officer, V.R Section,
High Court, Madras.



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T.V.THAMILSELVI J.
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