



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-08-2025

WEB COPY

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 832 of 2025

AND

CMP NO. 6663 OF 2025

Icici Lombard General Insurance Co Ltd
414 Veer Savarkar Marg, Near Siddhi Vinayak
Temple, prabhadevi, Mumbai 400025 and having
its branch office at 2nd floor, Sigma Towers,
Narayanasamy Layout, Pappanaickenpalayam,
Coimbatore 641037.

Appellant

Vs

A.Albert(died)

1. Minor A.Cristofer Arul

2.Minor A.Johnson

Minors Rep. by their natural guardian
uncle A.Amulraj, S/o. Alponse.

3.A.Saiyed Mohammed

4.G.Parvatham

Respondents



PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to set aside the decree and judgment dated 09.08.2019 made against award in MCOP No.1653 of 2015 on the file of the Motor Accident Claim Tribunal Special Subordinate Judge, Coimbatore.

For Appellants: Mr.K.Poomalai

For Respondents: Mr.A.S.Vijayaraghavan For R1 And R2
R3 and R4 - Notice Dispensed With

JUDGMENT

Challenging the impugned award passed by the Motor Accident Claims Tribunal, Special Subordinate Judge, Coimbatore in MCOP No.1653 of 2015, dated 09.08.2019, the appellant/3rd respondent insurance company preferred this Civil Miscellaneous Appeal.

2.The case of the respondents/petitioners 1 and 2 is that on 17.02.2023 at about 23.40 hours when the petitioner was walking from west to east near the divider, Ukkadam bus stop, Coimbatore, at that time, a bus bearing Regn. No.TN-66 A-7777 driven by the 1st respondent came from east to west in a rash and negligent manner, dashed against one Albert and caused accident. Due to

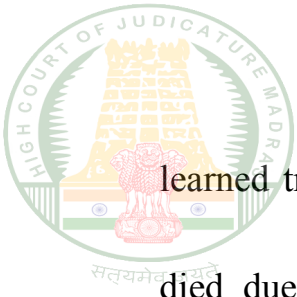


which, he fell down and sustained grievous injuries and fracture on his left leg, right hand and right thigh and multiple injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 3rd respondent herein. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.12,72,400/- under various heads and the said compensation was directed to be paid with interest at the rate of 7.5% per annum.

4. The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.

5. The learned counsel for appellant argues that the deceased Albert was not died due to the injury sustained by the appellant in the said accident and he sustained only both bone fracture and also recovered. But without any documentary proof to establish the nexus between the injury and death, the



learned tribunal under the assumption concluded that the deceased Albert was died due to the injury sustained in the accident, which needs interference.

WEB COPY

Therefore, he prayed to set aside the said findings.

6. The learned counsel for respondents 1 and 2 would submit that the deceased Albert had sustained injury of both bone fracture as well as serious injury and he had undergone surgery and skin grafting was also done. He would submit that due to the severe injuries in the left leg, he got infected resulting in puss formation. Therefore, he was not able to do his work as he did before. He would submit that he had worked as a cook at the time of accident and after that he was not able to continue his job. Thereafter, due to the infection, he suffered with swine flue and died subsequently. Therefore, the tribunal has rightly concluded that the deceased died due to the injury sustained in the accident. Hence, he prayed to dismiss this appeal as no merit.

7. Heard and considered rival submissions made by both learned counsel for appellant and respondents 1 and 2 and perused materials available on record.

8. Considering submissions of appellant and on perusal of records, it reveals that the respondents/petitioners 1 and 2 not produced any documents to



show that he died due to the injury sustained in the said accident. Therefore, the tribunal without having any documentary proof to prove the nexus between injury and death, passed the award under the fatal accident as such is liable to be set aside. However, on seeing the facts, it reveals that due to injury sustained in the accident, he got infected resulting in puss formation and continuously he was taking treatment and even he had undergone surgery, to that effect, he had produced evidence before the tribunal. Therefore, this court is inclined to pass award with regard to the injury sustained by him as well as considering his pain and sufferings till his death. Accordingly, the award passed by the tribunal is set aside.

9. Admittedly, on perusal of records, the fact reveals that due to the injuries sustained in the accident, he got infected resulting in puss formation, as a result of which, he suffered with swine flu and died subsequently. Considering that, this Court is inclined to award compensation for his disability. As the deceased Albert was a cook at the time of accident, he would have earned a sum of Rs.15,000/- per month, but the tribunal had fixed his notional monthly income only as Rs.6000/-. So, considering the fact that he was a cook by



profession, earned a sum of Rs.15,000/- per month, considering his age of 29 years, considering the cost of living at that time and also the fact that the

accident was happened in the year 2013, this court is inclined to enhance the sum awarded towards notional monthly income from Rs.6000/- to Rs.15,000/-.

10. On further perusal of records, the fact reveals that he got infected resulting in puss formation and suffered with swine flu, as a result of which nearly about 4 years, he had sustained severe pain till his death due to the said accident. Considering his pain and sufferings till his death, this Court is inclined to award the sum towards pain and sufferings Rs.5,00,000/-.

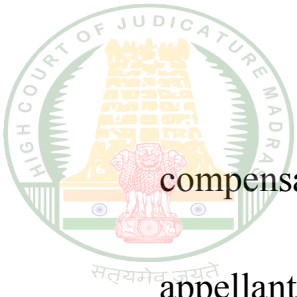
11. Considering the fact that due to the accident, he got infected and suffered with swine flu, he undergone treatment for more than four years, for which the petitioner had incurred huge transport expenses. Hence, this court is inclined to award a sum of Rs. 10,000/- towards transportation expenses. As he got infected and also suffered with swine flu, this Court is inclined to award the sum under the head of nutrition Rs.50,000/-. Considering the nature of injury and other relevant factors, this Court is inclined to award a sum of Rs.25,000/- towards loss of amenities.



12. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount awarded (in Rs.)
1.	Loss of income (Rs.15,000 x 12 = 1,80,000)	1,80,000
2.	Pain and sufferings	5,00,000
3.	Transportation	10,000
4.	Nutrition	50,000
5.	Loss of amenities	25,000
	Total	7,65,000

13. The appellant insurance company is directed to deposit the compensation of Rs.7,65,000/-, less the 50% of award amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit, the legal heirs of Albert viz., the respondents 1 and 2 are permitted to withdraw the award amount subject to filing of declaration of major petition before the tribunal. As the wife of deceased Albert already no more prior to the accident, sons of deceased are entitled to share the amount proportionately now determined by this court along with interest and costs, less the amount if any, already withdrawn. Insofar as the



compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of

payment of compensation remains unaltered.

14. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

14-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

rpp

To

1. Motor Accident Claims Tribunal, Special Subordinate Judge, Coimbatore.

2. Section Officer, VR Section, Madras High Court.



WEB COPY

CMA No. 832 of 2025



T.V.THAMILSELVI J.

rpp

**CMA No. 832 of 2025
AND CMP NO. 6663 OF
2025**

14-08-2025