



C.M.A.No. 2090 of 2021

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T.V.THAMILSELVI, J.

This matter was taken up for hearing under the caption “For Being Mentioned” today at the instance of the learned counsel for the appellant.

2. The learned counsel for appellant would submit that this Court by Judgment dated 24.07.2025 partly allowed the above Civil Miscellaneous Appeal. However, he would submit that in para 8 of the judgment, in the calculation column, the total amount of compensation was wrongly arrived and in para 9 of the judgment, apportionment of share of claimants needs to be modified. Hence, he prayed to amend the same and requested to issue fresh order copy.

3. Heard the contentions of learned counsel for appellant and perused the order.

4. Considering his submissions, calculation column in para 8 and para 9 of the judgment shall be substituted as follows :-

“



<i>S.No</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by Tribunal (in Rs.)</i>	<i>Amount (in Rs.)</i>	<i>Award confirmed or granted or enhanced</i>
1.	Loss of income/dependence	13,23,000	22,68,000	enhanced
2.	Loss of love and affection	30,000	nil	
3.	For Loss of consortium	40,000	1,60,000	enhanced
4.	For Funeral expenses	15,000	15,000	confirmed
5.	For Transportation charges	nil	nil	
	Total	14,08,000	24,43,000	

9. In view of the discussions made earlier, the compensation awarded by the tribunal is enhanced to Rs.24,43,000/-. The appellant is directed to deposit the said amount together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation to the credit of MCOP No.232 of 2016 on the file of the Motor Accident Claims Tribunal, III Addl. District Court, Villupuram at Kallakurichi, within a period of eight weeks from the date of receipt of a copy of this judgment. The first claimant is entitled to Rs.10,00,000/- and the 2nd and 3rd claimants are entitled to Rs.6,00,000/- each and their share shall be



deposited in any of the Nationalised Bank, till they attain majority and they are permitted to withdraw the interest and 4th claimant is entitled to Rs.2,43,000/-. On such deposit of the enhanced compensation amount now determined by this Court, the appellants are permitted to withdraw the enhanced award amount by making formal application before the Tribunal.

5. Registry is directed to incorporate above correction in the judgment of this Court in C.M.A.No.2090 of 2021 dated 24.07.2025 and issue fresh order copy to the appellant.

19.11.2025

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T.V.THAMILSELVI, J.

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C.M.A. No.2090 of 2021

19.11.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 24-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2090 of 2021

AND

CMP NO. 11422 OF 2021

1. Shri Ram General Ins. Co. Ltd
Chennai 96

Appellant(s)

Vs

1. Mrs.Anjalai
W/o.Ramu, Resi At Kudiraichandal
Village, Kallakurichi Tk.

2.Minor Suriya
Resi At Kudiraichandal Village,
Kallakurichi Tk. Respondents 2 And
3 Minors Rep By 1st Respondent
Mother.

3.Minor Prabakaran
S/o.Ramu, Resi At Kudiraichandal
Village, Kallakurichi Tk.
Respondents 2 And 3 Minors Rep
By 1st Respondent Mother.

4.LAKSHMI
W/o.Ayyakannu, Resi At
Kudiraichandal Village,
Kallakurichi Tk.

5.RAMACHANDIRAN
S/o.Kannan, Kudiraichandal
Village, Kallakurichi Tk.

Respondent(s)



PRAYER

To set aside the Decree and Judgment dated 16.09.2019 passed in MCOP No.232 of 2016 by the Honble Motor Accident Claims Tribunal, III Additional District Court, Villupuram at Kallakurichi.

CMA No. 2090 of 2021

For Appellant(s): Ms.C.Bhuvanasundari

For Respondent(s): Mr.Amar.D.Pandiya For R1 to 4
Mr.K.Suryanarayanan For R5

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to set aside the Decree and Judgment dated 16.09.2019 passed in MCOP No.232 of 2016 by the Honble Motor Accident Claims Tribunal, III Additional District Court, Villupuram at Kallakurichi.

2. On 24.03.2016, at about 09.30 hours near Kudiraichandal Higher Secondary School, while the deceased was travelling as a pillion rider of the two wheeler bearing registration No. PY 01 BB 6883 at that time, the first respondent's vehicle bearing registration No. TN 32 AW 1776 by its driver parked the vehicle in the middle of the road without any indication and without any parking light and leaving the vehicle in dangerous position, due to which the rider of the motorcycle dashed against the parked vehicle thereby caused the death of the pillion rider.



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, the insurance company filed this appeal.

3. The learned counsel for the appellant submits that rider of the two wheeler rode a vehicle in a rash and negligent manner dashed against the vehicle parked on the corner of the road but the tribunal has failed to take note of the above fact erroneously passed the award and fixed liability upon the insurance company. Hence, he prays to set aside the award passed by the tribunal and fix contributory negligence upon the two wheeler

4. Further he submits that the accident was happened at the right side of the road hence there is no negligence on the part of the rider of the parked two wheeler and charge sheet as filed against the driver of the two wheeler.

5. The learned counsel for the claimants submit that at the time of the accident the deceased was pillion rider of two wheeler. Though he has not wearing the helmet, the negligence is upon the rider of the two



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wheeler. Therefore, the tribunal has rightly fixed 15 % negligence upon the deceased which is unwarranted. Hence, he prays to enhance the compensation. Further he submits that the accident was happened in the year 2016 but the tribunal has fixed only Rs.7,000/- as notional income. Hence, he prays to enhance the compensation.

6. The learned counsel for the appellant/Insurance Company raised objection stating that the claimants have not filed any separate appeal, hence they are not entitled to ask enhancement of compensation.

7. Considering the submissions on either side, admittedly the vehicle bearing registration No. TN 32 AW 1776 was parked on the road by following the rules but without noticing said vehicle the rider of the two wheeler hit against it, due to which, pillion rider died on the spot. However, the rider of the offending vehicle has not been examined by the Insurance Company before the tribunal. According to the claimants, vehicle was parked in the middle of the road without any parking light thereby the accident was happened. If at all negligence is on the part of the rider of two wheeler they should have lodged complaint against the offending vehicle but no such complaint was lodged. Therefore, the negligence of the rider of the two wheeler has not been proved and the



objection raised by the insurance company is unsustainable.

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8. As Order 41 Rule 33 CPC, this Court is empowered to enhance the compensation, to ensure just compensation, without any cross appeal. On seeing the fact that the accident was happened in the year 2016. Hence, this Court is inclined to enhance the notional income of the deceased from Rs.7,000/- to Rs.12,000/-. Accordingly, the claimant is entitled to Rs.22,68,000/-(12000+4800x12x15-1/4) under the head of loss of dependency. Further, the tribunal has awarded very less amount in other heads. Hence, this Court is inclined to award Rs.1,60,000/- under the head of loss of consortium and Rs.1,60,000/-. Except above modification the award passed by the Tribunal in other heads remain unchanged.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of income/dependence	Rs.13,23,000/-	Rs.22,68,000/-
2.	Love and Affection	Rs.30,000/-	Nil
3.	Loss of consortium	Rs.40,000/-	Rs.1,60,000/-
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-
5.	Transportation charges	Nil	Nil
	Total	Rs.14,08,000/-	Rs.31,99,000/-



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9. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.31,99,000/-. The appellant 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.232 of 2016 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Villupuram at Kallakurichi., within a period eight weeks from the date of receipt of a copy of this judgement. The first claimant is entitled to Rs. 10,00,000/- and the second and third claimants are entitled to Rs. 7,50,000/- each and their share shall be deposited in any of the Nationalised band, till they attaining their majority and they are permitted to withdraw the interest and fourth claimant is entitled to Rs. 6,99,000/-. On such deposit, the claimants are permitted to withdraw the award amount by making formal application before the Tribunal.

10. With the above direction, the Civil Miscellaneous Appeal is partly allowed. 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

10/13



Neutral Citation: Yes/No

To

1. The Motor Accident Claims Tribunal, III Additional District Court, Villupuram at 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. 2090 of 2021
AND CMP NO. 11422
OF 2021**

24.07.2025