



CMA.No.469 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 24.09.2025

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
and

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.469 of 2014

& Cross Objection SR.No.102988 of 2019

& C.M.P.No.25565 of 2019

C.M.A.No.469 of 2014

Bajaj Allianz General Insurance Co. Ltd.,
11, Peoples Park, 3rd Floor,
Government Arts College Road,
Coimbatore.

... Appellant

/versus/

1. Manivasagam. (died)

2. G.R.Bala Guru.

3. The Oriental Insurance Co. Ltd.,
C.C.Complex, 1st Floor,
No.158, P.New Road,
Kovilpatti – 628 501.

4. Thangarajan.

(2nd and 4th respondent herein were set *ex parte* by the Court below)

Hence, notice in this appeal against them may be dispensed with.

5. Sudha.M

6. Dhinesh.M

7. Saraswathi

... Respondents.

(R1 – died, this Court suo motu impleads the respondents R5 to R7 as legal heirs)



CMA.No.469 of 2014

Cross Objection SR No.102988 of 2019

1. Manivasagam (died)

2. Sudha.M

3. Dhinesh.M

4. Saraswathi.

... Cross Objector/petitioners

(1st petitioner died, this Court suo motu impleads as petitioners 2 to 4)

/versus/

1. Bajaj Allianz General Insurance Co. Ltd.,
11, Peoples Park, 3rd Floor,
Government Arts College Road,
Coimbatore.

2. G.R.Bala Guru.

3. The Oriental Insurance Co. Ltd.,
C.C.Complex, 1st Floor,
No.158, P.New Road,
Kovilpatti – 628 501.

4. Thangarajan.

(The respondents 2 & 4 were set *exparte* before the Tribunal, hence notice may be dispensed with in this Cross appeal).

... Respondents

Prayer in C.M.A.No.469 of 2014: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree 24th November 2009 made in M.C.O.P.No.582 of 2005 on the file of Motor Accident Claims Tribunal, (Additional District Judge-cum-Fast Track Court No.5), Tiruppur, Coimbatore District.

Prayer in Cross Appeal SR.No.102988 of 2019: Cross Appeal filed under Order 41 Rules 22 of C.P.C., to enhance the compensation by allowing this Cross objection with interest and costs.



CMA.No.469 of 2014

Prayer in C.M.P.No.25565 of 2019: Civil Miscellaneous Petition filed under Order 41 Rule 27 of C.P.C., to receive the additional documents mentioned in the list of documents and to be marked as Ex.P.8 & Ex.P.9 in the above appeal in C.M.A.No.469 of 2014 pending before this Court.

CM.A.No.469 of 2014:

For Appellants : Mr.K.Padmanabhan,
For Respondents : Mr.Ma.Pa.Thangavel, for R1, R5 to R7

: Mr.K.Vinod, for
Mrs.Elveera Ravindran, for R3
: No appearance, for R2 & R4

Cross Objection SR.No.469 of 2014:

For Petitioners : Mr.Ma.Pa.Thangavel,

For Respondent : Mr.K.Padmanabhan, for R1
: Mr.K.Vinod, for
Mrs.Elveera Ravindran, for R3
: No appearance, for R2 & R4

COMMON JUDGMENT

(Order of the Court was made by G.Jayachandran, J.)

It is brought to the notice of this Court that 1st respondent/Manivasagam died, this Court suo motu impleads respondents R5 to R7 as parties to the appeal (C.M.A.No.469 of 2014) and also impleads petitioners 2 to 4 in Cross Objection SR.No.102988 of 2019 in their capacity as the legal heirs of the deceased 1st petitioner.



CMA.No.469 of 2014

2. Civil Miscellaneous Appeal is filed by the Insurance Company, being aggrieved by the award passed by the Motor Accident Claims Tribunal, Tiruppur, in M.C.O.P.No.582 of 2005.

3. Cross Objection SR.No.102988 is filed by the petitioner/Cross objector to enhancement of compensation.

4. The claimant/Cross objector had taken out an application for enhancement of compensation. It is not out of context to record the facts that, pending appeal, the 1st respondent, who is the claimant has lost his breath on 20.02.2024, living behind his wife, his mother (widow) and son who has just attained majority.

5. Adverting to the facts of the case, on 01.06.2005 early morning at 4.45 a.m, an auto bearing Reg.No.TN-39-AB-2079, carrying four passengers besides the driver had dashed against a Lorry bearing Reg.No.TN-28-4509. The occupants of the auto had sustained injuries. The claimant/Manivasagam was one among them. The claim petition seeking compensation of Rs.15,00,000/- instituted by Manivasagam contending that the injuries sustained by him had made him cripple, causing 100% disability and unable to earn his livelihood or maintain his dependent. Claiming that, before the



CMA.No.469 of 2014

accident, he was earning a sum of Rs.6000/- per month as welder in a carpentry and the accident occurred due to the rash and negligent act of the auto driver in which he was travelling. Consequently, the claimant has instituted the claim petition against (i) the owner of the auto and its insurer and (ii) the owner of the lorry and its insurer.

6. The claim petition was strongly and vehemently contested by the Insurance Company. The Tribunal, after considering the evidence on the side of the petitioner as well as the evidence on the side of the respondents, including the documents relied on either side, held that the accident occurred wholly due to the rash and negligent driving of the auto driver in which the claimant was travelling and sustained injuries.

7. Regarding the loss of income and the quantum of compensation, though the claimant has averred that he was earning Rs.6000/- per month and adduced oral evidence of the co-worker to support his claim. However, the Tribunal had fixed the notional income of Rs.3000/- per month and the applied multiplier since the medical evidence indicated that the claimant had sustained 100% functional disability.



CMA.No.469 of 2014

8. The award of the Tribunal is challenged by the Insurance Company on the ground that when there is head on collusion between the Auto and the lorry, the negligence on the part of the lorry driver has been totally ignored by the Tribunal and had fixed entire liability on the insurer of the Auto.

9. Regarding the quantum of compensation, it was contended that a sum of Rs.3000/- per month as notional income fixed by the Tribunal is *per se* without any basis. Further, submitted that multiplier 18 should be applied for the injured person, whose age is 27 is also not inconsonance with the dictum laid down in *Sarala Verma vs. Delhi Transport Corporation and another* reported in (2009) 6 SCC 121.

10. The Learned Counsel for the Appellant/Insurance Company contended that other injured persons also laid claim petition and their evidence in the respective claim petition would clearly indicate that it was head on collusion and both the drivers were at fault. Therefore, the entire liability ought not to have been fastened on the insurer of the Auto. Furthermore, submitted that there was no evidence to prove the claimant had sustained 100% functional disability, for applying the multiplier. The Tribunal gravely erred in applying the multiplier in this case.



CMA.No.469 of 2014

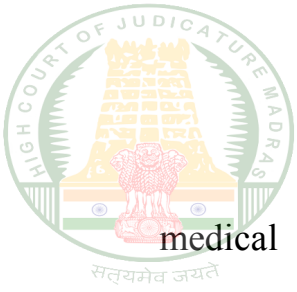
11. Per contra, the Learned Counsel appearing for the claimant,

who is now no more but been instructed by his legal representatives to represent the 1st respondent (now deceased), submitted that the issue of negligence has already been decided in the connected claim petitions M.C.O.P.Nos.519, 520, 521 of 2022, dated 10.10.2007 and the same been confirmed in C.M.A.Nos.3708 to 3710 of 2008, dated 08.10.2018.

12. Being a question of fact, the issue of negligence, having been heard and decided by the Tribunal as well as by the Appellate Court, is no more available for reappraisal.

13. Pointing out the portion of the Tribunal award which has discussed about the negligence and relying upon the findings in the connected claim petition, which is marked as Ex.B.5 in the present case, the Learned Counsel for the respondent submitted that it is futile to look into the issue of negligence.

14. Regarding the quantum of compensation, it is contended by the Learned Counsel for the legal representatives of the claimant that, after the accident, the victim was living life as a vegetable and had incurred substantial



CMA.No.469 of 2014

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medical expenses. His loss of income is fixed as Rs.3000/- per month notionally is abysmally low and therefore, the Tribunal ought to have fixed the income as Rs.6000/- per month and also added 40% towards the future prospects to ensure that the compensation is fair and adequate. Since the award passed is low, the Cross-objection filed seeking enhancement of compensation to Rs.40 lakhs and also pleaded that during his lifetime, the deceased 1st respondent had incurred medical expenses and he has taken out application to receive additional documents relating to the medical expenses and that has to be taken into consideration.

15. The Learned Counsel appearing for the appellant submitted that the plea raised on behalf of the deceased 1st respondent need not be taken into consideration, since the subsequent events and judgments will not have a retrospective effect to the accident claim which has already been settled.

16. The only issues to be decided in this appeal, whether there is contributory negligence on the part of the lorry and whether the fixation of 100% disability and applying multiplier are in consonance with law.



CMA.No.469 of 2014

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17. The Motor Vehicles Act and the provisions dealing with the compensation for road accident being a social welfare legislation. The Court cannot have a pedantic approach for the claims. It has to test the claim petition following the principles of fair and equity.

18. This is a case where a 27 year old man, married and living with his wife and children, had sustained injury in a road accident, causing damage to the spinal cord, knee and perital region. The medical evidence, in the nature of discharge summaries marked as Ex.A2, Ex.A3 and Ex.A6, read cumulatively discloses the fact that the functional disability incurred had caused 100% loss of earning capacity.

19. The Tribunal had observed demeanour of the claimant when he had attended the Court for giving evidence and same also been recorded in the award. The evidence gives satisfactory explanation for applying the multiplier and fixing 100% loss of earning capacity.

20. Therefore, this Court, while considering the grounds of appeal raised by the Insurance Company, primarily find that the plea of contributory negligence is not substantiated by any reliable evidence and further been



CMA.No.469 of 2014

negated by the Tribunal in this case as well as the connected claim petitions.

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21. The finding of the Single Judge in the connected appeal, which carries persuasive value on this Court and also go in line with the view of this Court. Hence, the plea of the appellant that there was contributory negligence on the part of the lorry driver is negated.

22. Insofar as the quantum of compensation is concerned, the only error what this Court could find in the award is the application of multiplier 18 for the victim age 27. As per the scales provided under the Workmen's Compensation Act as well as reconciled in the *Sarala Verma case* [cited *supra*] and the subsequent cases, the appropriate multiplier for a claimant aged between 26 to 30, should be 17. This Court also finds that the compensation for the loss of income fixed at Rs.3000/- as notional income, should have been added with future prospects, which the Tribunal has omitted to consider.

23. Therefore, we are of the view that the loss of income has to be fixed at Rs.3000/- + Rs.1200/- per month, with multiplier 17. That apart, the Trial Court had awarded Rs.3,16,671.82, towards the medical treatment based on the medical bill provided by the claimant. By way of additional documents,



CMA.No.469 of 2014

the Learned Counsel for the 1st respondent has produced certain medical bill to

substantiate that the 1st respondent had incurred medical expenses subsequent to the award.

24. This Court is of the view that, while applying the multiplier and after considering the physical condition of the claimant, the Tribunal had taken 100% disability towards the earning capacity. While so, the medical expenses incurred subsequently to be considered as inclusive components. Therefore, without probing further regarding the medical expenses incurred after the award, this Court is of the view that since the claimant died, the compensation of Rs.25,000/- towards the pain and suffering and Rs.50,000/- for loss of amenity due to absence of movement of both lower limbs can be enhanced to Rs.1,00,000/- and Rs.2,00,000/- respectively, which will meets the ends of the justice in the present case.

25. Accordingly, this Civil Miscellaneous Appeal is dismissed and the Cross objection for enhancement of compensation is disposed of, fixing the loss of earning capacity as Rs.4200 x 17x12 x 100%.



<i>Sl.Nos.</i>	<i>Compensation under various heads</i>	<i>Award passed by this Court</i>
1.	<i>Loss Income of the claimant [Rs.4,200 x 17 x 12 x100%]</i>	<i>Rs.8,56,800/-</i>
2.	<i>Pain and Sufferings</i>	<i>Rs.1,00,000/-</i>
3	<i>Loss of amenities</i>	<i>Rs.2,00,000/-</i>
3.	<i>Loss of Marital Loss</i>	<i>Rs.1,00,000/-</i>
4.	<i>Extra Nourishment</i>	<i>Rs.5,000/-</i>
5.	<i>Transportation Expenses</i>	<i>Rs.5,000/-</i>
6.	<i>Loss of Income during treatment</i>	<i>Rs.4,000/-</i>
7.	<i>Medical expenses</i>	<i>Rs.3,16,671/-</i>
	<i>Total</i>	<i>Rs.15,86,471/-</i>

26. The claimant shall be entitled to interest at the rate of 7.5% p.a., for the award amount, from the date of filing of the petition till the date of payment. This Court, suo motu, impleads the wife and mother of the deceased as respondents 5 to 7. As far as the award amount is concerned, it shall be distributed pro-rata with 50% equally between the wife, who is the 5th respondent and the mother, who is the 7th respondent.

27. The Learned Counsel for the Insurance Company submitted that the entire award has already been deposited while preferring the appeal. If that is so, the balance award amount along with interest to be deposited within a period of eight weeks from the date of receipt of copy of this order. On such



CMA.No.469 of 2014

deposit, the Trial Court shall permit the respondents 5 & 6 to withdrawn the

WEB said amount on filing proper application.

28. In fine:

- (i) C.M.A.No.469 of 2014 is dismissed.
- (ii) Cross Objection SR.No.102988 of 2019 is disposed of.
- (iii) Civil Miscellaneous Petition No.2556 of 2019 is closed.

[Dr.G.J., J.] & [M.S.K., J.]
24.09.2025

Index : Yes/No

Internet : Yes/No

bsm

To

1. The Motor Accident Claims Tribunal,
(Additional District Judge-cum-Fast Track Court No.5), Tiruppur,
Coimbatore District.



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CMA.No.469 of 2014

Dr.G.JAYACHANDRAN, J.
and
MUMMINENI SUDHEER KUMAR, J.

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C.M.A.No.469 of 2014
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24.09.2025