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C.M.A.Nos.507 & 1377 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.Nos.507 and 1377 of 2021

C.M.A.Nos.507 of 2021

1.The Branch Manager,
M/s.National Insurance Co. Ltd.,
Venkatesapuram, Bank of India Upstairs,
Perambalur.

2.The Branch Manager,
M/s.National Insurance Co. Ltd.,
Venkatesapuram, Bank of India Upstairs,
Perambalur.

... Appellants

vs.

1.Fathima
2.Shemeena
3.Shameer
4.Sajeena
5.Vasanthi
6.Abdul Basheer

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 26.09.2019 passed in M.C.O.P.No.249 of 2017 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Perambalur.

For Appellants : Mr.S.Arunkumar

For Respondents : Mr.T.Gopinath [R1 to R4]

R5 and R6 – No Appearance



C.M.A.Nos.507 & 1377 of 2021

C.M.A.Nos.1377 of 2021

WEB COPY

- 1.Fathima
- 2.Shameena
- 3.Shameer
- 4.Sajeena

... Appellants

vs.

- 1.Vasanthi
- 2.The Branch Manager,
M/s.National Insurance Co. Ltd.,
Venkatesapuram, Bank of India Upstairs,
Perambalur.
- 3.Abdul Basheer
- 4.The Branch Manager,
M/s.National Insurance Co. Ltd.,
Venkatesapuram, Bank of India Upstairs,
Perambalur.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 26.09.2019 passed in M.C.O.P.No.249 of 2017 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Perambalur.

For Appellants : Mr.T.Gopinath

For Respondents : Mr.S.Arun Kumar [R2 & R4]

R1 and R3 – No Appearance

COMMON JUDGMENT

C.M.A.No.507 of 2021 is preferred against the Award dated 26.09.2019 made in M.C.O.P.No.249 of 2017 on the file of Motor Accident

2/9



C.M.A.Nos.507 & 1377 of 2021

Claims Tribunal / Principal District Court, Perambalur by the Insurance Company for a change in the quantum of compensation.

2. C.M.A.No.1377 of 2021 is preferred against the Award dated 26.09.2019 made in M.C.O.P.No.249 of 2017 on the file of Motor Accident Claims Tribunal / Principal District Court, Perambalur by the claimants for enhancement of compensation.

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

4. The legal representatives of one Pon Bakkar had filed claim application under Section 166 of Motor Vehicles Act, 1988 claiming compensation for the death of the above said person who died in a road traffic accident that took place on 21.11.2016.

5. The Tribunal upon consideration of the evidence and after hearing arguments advanced by either side granted compensation of Rs.29,05,000/- with interest at the rate of 7.5% p.a., from the date of petition till the date of deposit. The amounts granted by the Tribunal under



C.M.A.Nos.507 & 1377 of 2021

various heads are given hereunder:-

Sl. No.	Description	Amount awarded by Tribunal
1	For Loss of Dependency	Rs.28,35,000/-
2	For Loss of Consortium	Rs. 40,000/-
3	For Loss of Estate	Rs. 15,000/-
4	For Funeral Expenses	Rs. 15,000/-
	Total	Rs.29,05,000/-

6. It has come on record through the evidence of PW2 who is the son of the deceased Bakkar that his father was 40 years of age at the relevant point of time and was working as Car Driver with the 3rd respondent and earning a sum of Rs.25,000/- p.m. Date of accident is 21.11.2016. As per post-mortem certificate and death certificate of the deceased Bakkar [Exs.P7 and P8], the age of the deceased is to be taken as 40 years. PW2, son of the deceased was aged about 27 years at the time of filing of claim petition. Had the deceased got married at the age of 25 years, his age would be 53 years in the year 2017. Hence, age of deceased is taken as 53 years at the relevant point of time.

7. As per the law laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd., v. Pranay Sethi and others***, reported in ***2017 (2) TN MAC 609(SC)***, as regards future prospects for the persons



C.M.A.Nos.507 & 1377 of 2021

who are not in permanent job 10% has to be added along with the income while computing the loss of dependency. As held in **Smt.Sarla Verma and Ors., v. Delhi Transport Corporation and Another** reported in **2009 (2) TN MAC 1 (SC)**, the relevant multiplier to be selected is 11. The claimants are four in number (wife and three children). Therefore, 1/4th has to be deducted for personal and living expenses.

8. PW2 would state that his father was working a car driver. To substantiate the same, no document is marked. Considering the above said details, monthly income of the deceased is fixed as Rs.16,000/-.

9. In consideration of the above said details, following formula emerges for computation of loss of dependency:

$$\text{Rs.16,000/-} + 10\% - 1/4 \times 12 \times 11\text{m} = \text{Rs.17,42,400/-}.$$

10. As per the law laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd., v. Pranay Sethi and others**, reported in **2017 (2) TN MAC 609(SC)**, all the claimants are entitled for Rs.40,000/-. Claimants are four in number, but the Tribunal has granted Rs.40,000/- only for loss of consortium to the wife. Therefore, for loss of consortium,



C.M.A.Nos.507 & 1377 of 2021

an amount of Rs.1,20,000/- is granted in addition to the amount already granted towards consortium. As regards other heads, the amount awarded by the Tribunal appears to be reasonable and acceptable and therefore it does not warrant any interference by this Court. Therefore, the amounts awarded by this Court as mentioned supra, is reworked and tabulated as mentioned below:-

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Dependency	Rs.28,35,000/-	Rs.17,42,400/-	Reduced
2	For Loss of Consortium	Rs. 40,000/-	Rs. 1,60,000/-	Enhanced
3	For Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	Confirmed
4	For Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
	Total	Rs.29,05,000/-	Rs.19,32,400/-	

11. Thus, the compensation awarded by the Tribunal is reduced from Rs.29,05,000/- to **Rs.19,32,400/-** which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.



C.M.A.Nos.507 & 1377 of 2021

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12. In the result,

(i) The C.M.A.No.507 of 2021 filed by the Insurance Company stands partly allowed.

(ii) The C.M.A.No.1377 of 2021 filed by the Claimants stand dismissed.

(iii) The compensation awarded by the Tribunal is reduced from Rs.29,05,000/- to **Rs.19,32,400/-**.

(iv) The 1st Appellant / Insurance Company is directed to deposit the modified compensation amount now determined by this Court i.e., **Rs.19,32,400/-** (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.249 of 2017 on the file before the Motor Accident Claims Tribunal, Principal District Judge, Perambalur, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(v) On such deposit being made, the claimants are at liberty to withdraw the amount now determined by this Court, as per the apportionment made by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing cheque application before the Tribunal. The claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below



C.M.A.Nos.507 & 1377 of 2021

shall disburse the compensation amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

Consequently, connected miscellaneous petition if any stands closed. No costs.

28.11.2025

Index : Yes/No
Speaking / Non-speaking order
ssn

To:

1. The Motor Accident Claims Tribunal,
Principal District Judge, Perambalur.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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C.M.A.Nos.507 & 1377 of 2021

R.KALAIMATHI, J.,

ssn

C.M.A.Nos.507 and 1377 of 2021

28.11.2025