



WEB COPY

CMA No. 2250 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2250 of 2023

AND

CMA NO. 11 OF 2021

1. LOGANAYAGI

W/o.Govindan, res at Palaiyasiruvangur
Village, Sankarapuram Taluk

2. Minor Naveenkumar

S/o.Govindan, (Minor rep by next
friend/Guardian 1st Appellant Mother)
res at Palaiyasiruvangur Village,
Sankarapuram Taluk

3. Minor Adhilakshmi

D/o.Govindan, (Minor rep by next
friend/Guardian 1st Appellant Mother)
res at Palaiyasiruvangur Village,
Sankarapuram Taluk

4. Munusamy

s/o.Vinaithan, res at Palaiyasiruvangur
Village, Sankarapuram Taluk

5. Anjalai

W/o.Munusamy, res at
Palaiyasiruvangur Village,
Sankarapuram Taluk

6. Govindammal

W/o.Ananjidevan, res at
Palaiyasiruvangur Village,
Sankarapuram Taluk

Appellant(s)

Vs



1. KRISHNAMOORTHY
S/o.Perumal, Res at S.Kulathur Village,
Sankarapuram Taluk

2.National Insurance Co. Ltd.
Divisional Office, Pondicherry

3.Arumugam
S/o.Koothan, Res at No.170, North
Street, K.Alambalam Village,
Sankarapuram Taluk

4.The United Insurance co. Ltd.
Divisional Office, Arbindo Road,
Neyveli

Respondent(s)

CMA No. 11 of 2021

1. M/s.National Insurance Co. Ltd.
Divisional Office, Pondichery

Appellant(s)

Vs

1. LOGANAYAGI
W/o.Govindan, Res At
Palaiyasiruvangur Village,
Sankarapuram Taluk

2.Minor S. Naveenkumar
S/o.Late Govindan, (minor Rep. By
Next Friend/guardian 1st Petitioner)
Res At Palaiyasiruvangur Village,
Sankarapuram Taluk

3.Minor Adhilakshmi
D/o.Late Govindan, (minor Rep. By
Next Friend/guardian 1st Petitioner)
Res At Palaiyasiruvangur Village,
Sankarapuram Taluk

4.MUNUSAMY



S/o.Vinaithan, Res At
Palaiyasiruvangur Village,
Sankarapuram Taluk

5.ANJALAI

W/o.Munusamy, Res At
Palaiyasiruvangur Village,
Sankarapuram Taluk

6.GOVINDAMMAL

W/o.Ananjidevan, Res At
Palaiyasiruvangur Village,
Sankarapuram Taluk

7.KRISHNAMOORTHY

S/o.Perumal, Res At S.Kulathur
Village, Sankarapuram Tk

8.ARUMUGAM

S/o.Koothan, Res At No.170, North
Street, K.Alambalam Village,
Sankarapuram Taluk

9.The United India Insurance Co. Ltd.
Divisional Office, Arabindo Road,
Neyveli

Respondent(s)

PRAYER

To allow the Civil Miscellaneous appeal by enhancing the compensation awarded in the Judgment and Decree dated 16.12.2019 passed in MCOP no.381 of 2017 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Villupuram @ Kallakurichi

CMA No. 11 of 2021

PRAYER

To set aside the Judgment and Decree dated 16.12.2019 passed in MACT OP No.381/2017 by the Motor Accidents Claims Tribunal Judge, III Additional District Judge, Kallakurichi

CMA No. 2250 of 2023



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CMA No. 2250 of 2023



For Appellant(s): Mr.K.Suryanarayanan

For Respondent(s): Ms Rathana Thara For R2
Ms.C.Harini For M/s M.B.
Gopalan For R4 R1 And R3 - No
Appearance

COMMON JUDGEMENT

CMA No. 2250 of 2023 has been filed for enhancing the compensation awarded in the Judgment and Decree dated 16.12.2019 passed in MCOP no.381 of 2017 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Villupuram @ Kallakurichi

2. CMA No. 11 of 2021 has been filed to set aside the Judgment and Decree dated 16.12.2019 passed in MACT OP No.381/2017 by the Motor Accidents Claims Tribunal Judge, III Additional District Judge, Kallakurichi

3. For the sake of convenience the parties are denoted as ranked in CMA No. 2250 of 2023.

4. The learned counsel for the appellants/claimants submit that at the time of the accident i.e., on 09.08.2017, the deceased Govindan has driving the two wheeler bearing registration No. TN 15 W 7620 proceeding from Sankarapuram to Thiruvannamalai main road, and dashed against stationed vehicle bearing registration No. TN 15 U 3367 on the middle of the road without any signal, due to which the deceased fell down died on the spot.



Therefore, the entire accident was happened due to the negligence of the driver of the vehicle who parked the vehicle on the road without any signal but the tribunal has fixed 50% liability upon the deceased and 50% upon the driver of the vehicle, who parked the vehicle on the middle of the road. Therefore, the appellants has filed this appeal claiming that the entire liability ought to have fixed upon the driver of the vehicle bearing registration No TN 15 U 3367, who parked the vehicle on the middle of the road.

5. The learned counsel for the second respondent/insurance company submits that at the time of the accident the claimants filed the petition under Section 163(A) of M.V Act, which shows that they admit that deceased is a tortfeasor, however, tribunal has awarded Rs.8,11,860/- as compensation in stead of awarding statutory amount and also fixed 50% liability upon the third respondent/owner of two wheeler, which was driven by the deceased at the time of the accident as such is erroneous. Besides, the deceased also not having valid licence at the time of the accident. Therefore, fixing 50% liability upon driver of the vehicle as such is unsustainable. Hence, he prays to allow CMA No. 11 of 2021.

6. Considering the both side submissions and on perusal of the records, it reveals that complaint was given by the wife of the deceased Govindan three days after the accident. However, she is not eyewitness of the said accident but at the time of the argument, the learned counsel for the appellants submit that the driver of the vehicle bearing Registration No. TN 15 U 3367 was convicted



by the Judicial Magistrate for the offence under Sections 229, 304(A) IPC, which itself shows that negligence upon the first respondent/Krishnamurthy.

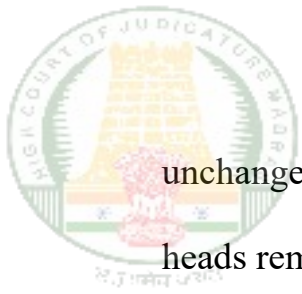
Further, the facts reveal that two wheeler belongs to the first respondent, which was parked on the road side against which deceased has dashed his two wheeler due to which he sustained fatal injuries and died. Therefore, it is clear that the accident has happened due to the vehicle bearing registration No TN 15 U 3367 which was parked on the middle of the road without any signal and in fact, it is not a parking place. Further, the insurance company has not examined the first respondent in order to prove the manner of the accident. It is an admitted fact that in the criminal proceedings the first respondent convicted due to the negligence on his part since he had parked the vehicle on the road and there is no contra evidence provided on the side of the respondent to disprove the said fact but the tribunal without considering all the facts and circumstances erroneously fixed 50% contributory negligence upon the owner of the two wheeler which was driven by the deceased Govidan. Duty is casted upon the first respondent to prove that his vehicle was parked on the parking place with proper evidence but he has not produced any evidence to that effect. Therefore, this Court is inclined to fix the entire liability upon the first respondent's vehicle which is insured with the second respondent herein. Hence, the second respondent is liable to pay the entire compensation. Further, the first respondent did not possessed valid licence at the time of the accident. Hence, the second respondent is directed to pay the compensation and recover the same from the



first respondent.

7. In the appeal filed by the Insurance Company, the learned counsel for the insurance company argued that the claimants filed the petition under Section 163(A) of Motor Vehicle(M.V) Act. Hence, the Trial Court ought to have awarded only the statutory amount of Rs.50,000/- on No faulty liability for the involvement of Motorcycle of first respondent. However, the entire claim petition shows that they have claimed that accident had happened due to the negligence of the first respondent vehicle. So mere filing of the petition under Section 163(A) is not sufficient to hold that claimants accepted that the deceased is tortfeasor. In fact, negligence of the first respondent clearly mentioned in the petition, hence petition is maintainable under Section 163(A) of M.V Act. In view of the above, the appeal filed by the Insurance Company in CMA No. 11 of 2021 is dismissed.

8. Further, considering the cost of living at the time of the accident this Court is inclined to fix Rs.15,000/- as notional income of the deceased. Accordingly, the appellants/claimants are entitled to Rs. 32,13,000/- Rs.15,000+6000x12x17-1/4 under the head of loss of dependency. Further, the deceased have four legal heirs but the Tribunal awarded only Rs. 40,000/- towards loss of consortium which is meagre. Hence, this Court is inclined to award Rs.1,60,000/- under the head of loss of consortium. Except above modification, the award passed by the Tribunal in other heads remain

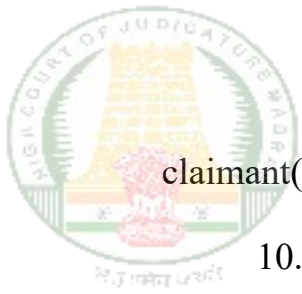


unchanged. . Except above modification, award passed by the tribunal in other heads remains unchanged.

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S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of income/dependency	Rs. 7,06,860/-	Rs.32,13,000/-
2.	Loss of estate	Nil	Nil
3.	Loss of consortium	Rs.40,000/-	Rs.1,60,000/-
4.	Funeral expenses	Rs. 15,000/-	Rs.15,000/-
5.	For love and affection	Rs.50,000/-	Rs.50,000/-
	Total	Rs.8,11,860/-	Rs. 34,38,000/-

9. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to **Rs. 34,38,000/-**. The 2nd respondent in CMA No. 2250 of 2023 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.381 of 2017 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Villupuram @ Kallakurichi, within a period eight weeks from the date of receipt of a copy of this judgement and recover the same from the first respondent. . On such deposit, the appellants are permitted to withdraw their respective share of the award amount as per the apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn. In so far as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the



claimant(s).

10. With the above direction, the CMA No. 2250 of 2023 is partly allowed and CMA No. 11 of 2021 is dismissed. No costs.

06-08-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Motor Accident Claims Tribunal, III Additional District Court, Villupuram @ Kallakurichi.

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



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CMA No. 2250 of 2023



T.V.THAMILSELVI J.
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**CMA No. 2250 of 2023
AND CMA NO. 11 OF
2021,CMP NO. 98 OF
2021**

06-08-2025