



CMA No.1550 of 2025

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 20.06.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**C.M.A.No.1550 of 2025**

1.Kavery  
2.Elumalai  
3.Vijayakumar  
4.Sounthararajan

... Appellants

Vs.

1.Selvakumari  
2.The United India Insurance Company Ltd.,  
Salem Main Road,  
Kallakuruchi.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to enhance the compensation in judgment and decree dated 26.03.2025 passed in M.C.O.P.No.205 of 2023, on the file of the Motor Accident Claims Tribunal, (Additional District Court), Kallakuruchi.

For Appellants : Mr.Amar Dineshbhai Pandiya

For R2 : Mr.J.Chandran

**JUDGMENT**



CMA No.1550 of 2025

**WEB COPY** The appellants have filed this appeal against the award passed in M.C.O.P.No.205 of 2023, on the file of the Motor Accident Claims Tribunal, (Additional District Court), Kallakuruchi, dated 26.03.2025.

2. The brief facts of the case of the appellants/claimants are as follows: On 04.06.2023, at about 06:30 hours, the deceased Ganapathy, in MCOP No. 205/2023, was riding his two-wheeler bearing Registration No. TN-15-L-1671 (TVS XL) on the Thiruvannamalai–Durugam Highway, near the service road. At the same time, the deceased Soniya Gandhi, in MCOP No. 206/2023, was standing on the side of the service road, off the main highway. At that moment, the 1st respondent's driver drove a car bearing Registration No. TN-54-T-0328 in a rash and negligent manner and dashed against both deceased persons, Ganapathy and Soniya Gandhi. The 1st respondent is the owner of the offending vehicle, and the 2nd respondent is the insurer of the said vehicle. It is submitted that the accident occurred solely due to the rash and negligent driving of the driver of the car bearing Registration No. TN-54-T-0328.



CMA No.1550 of 2025

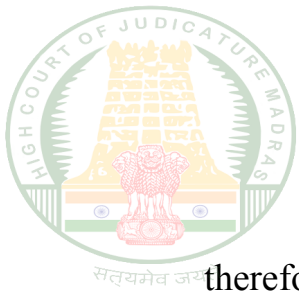
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3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs. 13,10,760/- as compensation, directing the 2nd respondent to pay the said amount to the appellants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants (claimants) have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. The learned counsel for the appellants submitted that the deceased was a Barber earning Rs.25,000/- per month. However, the Tribunal erroneously considered only salary of Rs. 14,000/-. He therefore, prayed for enhancement of compensation.

6. On the other hand, the learned counsel appearing for the 2nd respondent contended that the award passed by the Tribunal is based on well-settled principles of law applicable at the time of the order, and



CMA No.1550 of 2025

therefore, it need not be interfered.

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7. The deceased was working as a Barber. However, no documentary evidence was adduced by the claimants to substantiate their claim that the deceased was earning a sum of Rs.25,000/- per month as mentioned in their claim petition. In the circumstances, this Court is of the opinion that fixing the notional monthly income of the deceased at Rs.20,000/- would meet the ends of justice.

8. As per the decision of the Hon'ble Supreme Court in *National Insurance Co. vs Pranay sethi and others*, reported in **2017 (2) TNMAC 601**, 10% is to be added towards future prospects of the deceased. The deceased died, leaving behind the appellants, who are his legal heirs, namely, his wife and 3 children. Hence, 1/4 of the income is to be deducted towards the deceased's personal expenses. The deceased was aged 59 years at the time of the accident, and as per the decision rendered in *Sarla Verma and others vs. Delhi Transport Corporation and another*, reported in **(2009) 6 SCC 121**, the proper multiplier to be adopted in the instance case is 9. The compensation awarded under the



other heads by the Tribunal is confirmed.

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## 9. Calculation

Notional Income = Rs.20,000/-

10% Future Prospects = 20,000 + 2,000 = 22,000/-

After 1/4 deduction = 22,000 – 5,500= Rs.16,500/-

Loss of dependency

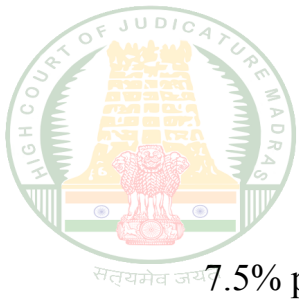
= Rs.16,500 x 12 x 9

= Rs.17,82,000/-

10. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:

| Sl. No | Heads                                | Amount (in Rs.)<br>awarded by the<br>Tribunal | Amount (in Rs.)<br>awarded by the<br>High Court |
|--------|--------------------------------------|-----------------------------------------------|-------------------------------------------------|
| 1.     | Loss of dependency                   | 12,47,400                                     | 17,82,000                                       |
| 2.     | Loss of Estate                       | 16,500                                        | 16,500                                          |
| 3.     | Funeral expenses                     | 16,500                                        | 16,500                                          |
| 4.     | Loss of Consortium                   | 44,000                                        | 44,000                                          |
| 5.     | Loss of love and<br>affection 3 sons | 1,32,000                                      | 1,32,000                                        |
|        | Total                                | Rs.14,56,400                                  | Rs.19,91,000                                    |
|        | Less Contributory<br>negligence 10%  | Rs.1,45,640                                   | Rs.1,99,100                                     |
|        | <b>Total</b>                         | <b>Rs.13,10,760</b>                           | <b>Rs.17,91,900</b>                             |

Thus, the compensation awarded by the Tribunal is enhanced from Rs.13,10,760/- to Rs.17,91,900/-, which shall carry interest at the rate of



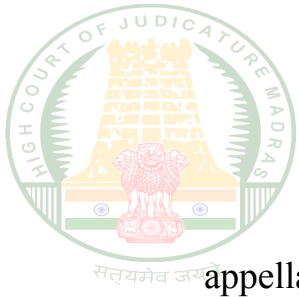
CMA No.1550 of 2025

WEB COPY

7.5% per annum.

**11. In the result:**

- i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.13,10,760/- to Rs.17,91,900/-.
- iii. The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after the receipt of the Court fee.
- iv. The 2nd respondent, the United India Insurance Company Ltd., Kallakuruchi, is directed to deposit the enhanced compensation amount, i.e., Rs.17,91,900/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No. 205 of 2023 on the file of the Motor Accident Claims Tribunal, (Additional District Court), Kallakuruchi, within a period of four weeks from the date of receipt or uploading of a copy of this order.
- v. On such deposit being made by the 2nd respondent, the



CMA No.1550 of 2025

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appellants/claimants are at liberty to withdraw the same, as per the apportionment made by the tribunal, after following due process of law.

vi. The appellants/claimants shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

**20.06.2025**

Index:Yes/No  
Speaking/non Speaking order  
Neutral Case citation: yes/no  
rri

To

- 1.The Motor Accident Claims Tribunal,  
(Additional District Court), Kallakuruchi.
- 2.The United India Insurance Company Ltd.,  
Salem Main Road,  
Kallakuruchi.
- 3.The Section Officer, V.R. Section,  
High Court of Madras.

**T.V.THAMILSELVI, J.**

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CMA No.1550 of 2025

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