



CMA.No.658 & 659 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTAR

CMA No.658 and 659 of 2025

Vennila ... Appellant in CMA.No.658 of 2025

Vs.

1. Vijaya Medical Education Trust
Old No.180, New No.434
N.S.K.Salai, Vadapalani
Chennai-600 026.

2. .The New India Assurance Co. Ltd.
Rep. by its Divisional Officer,
Having office at Vadapalani Micro Office (713304),
No.321, Arcot Road, Doshi Gardens,
1st Floor, Vadapalani, Chennai-600026
claim contact address at Macmillan House,
2nd Floor, B Block,
No.21, Pattulas Road,
Chennai-600002 ... Respondents in CMA.No. 658 of 2025

1.Vennila
2. V.Malini ... Appellants in in CMA.No.659 of 2025

Vs.



CMA.No.658 & 659 of 2025

WEB COPY

1. Vijaya Medical Education Trust
Old No.180, New No.434
N.S.K.Salai, Vadapalani
Chennai-600 026.

2. .The New India Assurance Co. Ltd.
Rep. by its Divisional Officer,
Having office at Vadapalani Micro Office (713304),
No.321, Arcot Road, Doshi Gardens,
1st Floor, Vadapalani, Chennai-600026
claim contact address at Macmillan House,
2nd Floor, B Block,
No.21, Pattulas Road,
Chennai-600002 ... Respondents in CMA.No. 659 of 2025

Prayer in in CMA.No.658 of 2025 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the order dated 07.02.2024 passed in MCOP No. 3614 of 2020 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai and order awarding the entire claim as claimed in MCOP No. 3614 of 2020.

Prayer in in CMA.No.659 of 2025 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the order dated 07.02.2024 passed in MCOP No. 3613 of 2020 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai and order awarding the entire claim as claimed in MCOP No. 3613 of 2020.



CMA.No.658 & 659 of 2025

WEB COPY

For Appellants in both CMA's : Mr.A.C.Kumaragurubaran
For Respondent in both CMA's : Mr.S.Dhakshinamoorthy for R2
R1-set exparte

COMMON JUDGMENT

The claimants are the appellants seeking enhancement of the compensation. The claimant in CMA.No.658 of 2025 is the injured . The claimants in CMA.No.659 of 2025 are dependents of the deceased in a road accident.

2. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3. It is the case of the claimants that the husband of the claimant in CMA.No.658 of 2025 and the first claimant in CMA.No.659 of 2025 and father of the second claimant in CMA.No.659 of 2025 namely Murugan died in a road accident that had occurred on 06.08.2020. It is stated by the claimants that Murugan and his wife, sole claimant in CMA.No.658 of 2025 and first claimant in CMA.No.659 of 2025 namely Vennila traveled in a TVS XL Super motorcycle from South to North direction on 06.08.2020 near Thirumalai Pillai junction street,



CMA.No.658 & 659 of 2025

WEB COPY Kodambakkam High Road. A Tempo Traveller belonged to the first respondent insured with the second respondent came in a rash and negligent manner in East to West direction and dashed against the victim's motorcycle. Due to the said impact, both Murugan and Vennila sustained grievous injuries and got admitted in Vijaya Health Centre. In spite of the best treatment, the said Murugan died on the very same day and his wife Vennila suffered permanent disability due to the injury. Hence, the claim petitions were filed seeking compensation for permanent disability suffered by Vennila and for the death of said Murugan.

4. The first respondent in both the original petition, the owner of the offending vehicle remained *exparte*. The second respondent /insurance company filed a counter and resisted the claim on the ground that the accident had occurred only due to the negligence of the deceased.

5. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the Tempo Traveller belonged to



CMA.No.658 & 659 of 2025

WEB COPY

the first respondent insured with the second respondent. The compensation payable to the sole claimant in CMA.No.658 of 2025 was fixed at Rs. 3,89,000/-. The compensation payable to the claimants in CMA.No.659 of 2025 was fixed at Rs.4,95,000/-. Not satisfied with the quantum of compensation, the claimants have come by way of these appeals.

6. Both the learned counsel for the Appellants as well as the Second Respondent/ Insurance Company have not advanced any arguments on the questions of negligence as well as liability and hence, the facts necessary to decide those questions are not discussed in this appeal.

7. The learned counsel for the Appellant submitted that the appellant in CMA.No.658 of 2025 was earning a sum of Rs.10,000/- per month by doing housekeeping work and the notional income of Rs.8,000/- fixed by the Tribunal is very much on lower side. The learned counsel further submitted that the Tribunal committed an error in fixing the disability at 30% as against 73% assessed by the Medical Board.



CMA.No.658 & 659 of 2025

WEB COPY

8. As far as the CMA.No.659 of 2025 is concerned, the learned counsel for the Appellants submitted that the income of Rs.12,500/- fixed by the Tribunal is very much on the lower side and contrary to the evidence available on record.

9. The learned counsel for the second respondent/insurance company submitted that the claimant in CMA.No.658 of 2025 suffered only dislocation of the shoulder and she was treated conservatively. In such circumstances, the percentage of the disability assessed by the Medical Board is exorbitant one and the Tribunal on sound reasoning reduced it to 30%. He further submitted that based on the documents produced before the Tribunal, it correctly fixed income of the deceased at Rs.12,500/- and the same requires no interference.

10. Based on the medical documents produced before the Tribunal, it came to the conclusion that the claimant suffered only dislocation of the shoulder and she was treated conservatively for the same. Based on the medical documents, the Tribunal concluded that the claimant did not undergo any surgery and she was treated as an outpatient. Taking into consideration that claimant has suffered only



CMA.No.658 & 659 of 2025

WEB COPY

dislocation of the shoulder and she was treated conservatively, the Tribunal rightly came to the conclusion that the disability of 70% assessed by the medical board was on the higher side and reduced the same to 30%. Even though the movement of one hand is reduced by injuries suffered, the same shall be converted to the whole body. Therefore, the tribunal was justified in fixing disability at 30% and arriving compensation for disability. The claimant has not produced any document to prove her income. When she was examined as PW1, she clearly admitted that she was receiving a family pension of Rs. 8000/- per month owing to death of her husband. Though it was stated by the claimant that she was working as a maid and earning a sum of Rs. 10,000 per month, in the absence of any concrete evidence, the tribunal was justified in fixing a sum of Rs.8000/- per month as income of the injured. After fixing the income of the injured at Rs. 8000/- per month, the tribunal applied multiplier method and arrived at Rs.3,16,800/- towards loss of earning and the same requires no interference. It seems that the tribunal has not added future prospects of 10% having regard to the age of the injured, which was fixed at 54



CMA.No.658 & 659 of 2025

WEB COPY

years, based on Aadhaar card, Exhibit P14. If future prospects of 10% is added, the claimant is entitled to Rs.3,48,480/- towards disability. The amount awarded by the tribunal under various other heads appear to be reasonable and hence, they are confirmed. Therefore, the amount payable to the injured claimant in CMA.No.658 of 2025 is enhanced to Rs.4,20,628/- . The CMA.No.658 of 2025 is partly allowed.

11. The compensation awarded by the Tribunal in MCOP.No.3614 of 2020 is modified as follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pain and Suffering	25,000/-	25,000/-	Confirmed
2.	Medical Expenses	2,148/-	2,148/-	Confirmed
3.	Extra Nourishments	10,000/-	10,000/-	Confirmed
4.	Transportation	10,000/-	10,000/-	Confirmed
5.	Disability	3,16,800/-	3,48,480/-	Enhanced
6.	Attender charges	25,000/-	25,000/-	Confirmed
	Total	3,88,948 rounded off to	4,20,628	Enhanced by Rs.31,628/-



CMA.No.658 & 659 of 2025

WEB COPY

3,89,000/-

12. As far as CMA.No.659 of 2025 is concerned, the tribunal fixed the income of the deceased at Rs.12,500/- based on Exhibit P16, last pension slip issued to the deceased. A perusal of the same would indicate that for the month of August 2020, the deceased Murugan received a pension of Rs.14,333/- with the deduction of Rs.1,894/- towards commutation. Therefore, the tribunal was justified in fixing the income of the deceased at Rs.12,500/-. The learned Counsel for the Appellants, based on Exhibit P18, the salary certificate issued by A.S. Vasan Shipping Private Limited, submitted that after retirement, he was on employment and earning a sum of Rs.8,000/- per month as salary. However, the tribunal failed to take into consideration the said document. It is pertinent to mention that PW-1 in her evidence clearly admitted that the deceased was relieved from shipping company in the month of June 2020 and at the time of accident he was not on employment. In such circumstances, the tribunal was justified in not



CMA.No.658 & 659 of 2025

WEB COPY

taking into consideration the salary certificate issued by the company from which the deceased was relieved even prior to the accident. However, the tribunal deducted 50% of the amount towards personal expenses. As per the law laid down in *Sarla Varma* case, only in cases where the victim died as a bachelor or spinster, 50% of the amount shall be deducted towards expenses. In the case on hand, he died leaving behind his wife and daughter. In such circumstances, this court is inclined to deduct one-third of the amount towards personal expenses. In that case, the claimants are entitled to Rs.5,00,000/- towards loss of dependency. The amount awarded under various other heads like loss of consortium, funeral expenses and loss of estate are confirmed. The amount awarded under the head transportation charges is set aside. In all, the claimants are entitled to Rs.6,10,000/-. Accordingly, the CMA.No.659 of 2025 stands partly allowed.

13. In view of the discussions made earlier, the award passed by the Tribunal in MCOP.No.3613 of 2020 is modified as follows:-



Sl • No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	3,75,000/-	5,00,000/-	Enhanced
2.	Loss of estate	15,000/-	15,000/-	Confirmed
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of Consortium	80,000/-	80,000/-	Confirmed
5	Transportation charges	10,000	Nil	Set aside
	Total	4,95,000/-	6,10,000/-	Enhanced by Rs.1,15,000 /-

14. With the above modifications, both the CMA.No.658 of 2025 and CMA.No.659 of 2025 are partly allowed and the compensation awarded by the Tribunal at Rs.3,89,000/- and Rs. 4,95,000/- are hereby enhanced to Rs.4,20,628/- and Rs.6,10,000/-. The appellants are entitled to interest at the rate of 7.5% per annum



CMA.No.658 & 659 of 2025

WEB COPY

(excluding the delay period, if any)from the date of filing of the claim petition till the date of realization. The second respondent /Insurance company is directed to deposit the enhanced award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment. The appellants/claimants are permitted to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

14.03.2025

Index:Yes/No
Internet:Yes/No
nr

To

1. Motor Accident Claims Tribunal,
Chief Judge, Court of Small Causes, Chennai
2. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



CMA.No.658 & 659 of 2025

S.SOUNTHAR, J.

nr

CMA No.658 and 659 of 2025

14.03.2025