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*C.M.A. Nos.2863 of 2022 and  
1629, 1671 & 2901 of 2024*

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

**JUDGMENT RESERVED ON : 03 / 12 / 2024**

**JUDGMENT DELIVERED ON : 07 / 01 / 2025**

**CORAM:**

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU  
AND**

**THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

**C.M.A. NOS.2863 OF 2022 AND 1629, 1671 AND 2901 OF 2024**

**AND**

**CMP NO.22220 OF 2022**

**IN**

**C.M.A. NO.2863 OF 2022**

**C.M.A. NO.2863 OF 2022**

The Divisional Manager  
The New India Assurance Co. Ltd.,  
DO No.30, JN Street,  
Puducherry – 605 001.

... Appellant /  
3<sup>rd</sup> Respondent

**Vs.**

M.S.Arumugam (Died)

... 1<sup>st</sup> Petitioner

1.A.Malliga

... 1<sup>st</sup> Respondent /  
2<sup>nd</sup> Petitioner

2.A.Vijayabaskaran

... 2<sup>nd</sup> Respondent /  
3<sup>rd</sup> Petitioner



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3.Kathirvel

... 3<sup>rd</sup> Respondent /  
1<sup>st</sup> Respondent

4.Dhanalakshmi

... 4<sup>th</sup> Respondent /  
2<sup>nd</sup> Respondent

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Award dated August 16, 2022 made in M.C.O.P. No.702 of 2016 on the file of the Motor Accidents Claims Tribunal [1<sup>st</sup> Additional District & Sessions Judge (FAC)] Cuddalore.

|                     |   |                                                                                                                        |
|---------------------|---|------------------------------------------------------------------------------------------------------------------------|
| For Appellant       | : | Mr.M.Krishnamoorthy                                                                                                    |
| For Respondents 1&2 | : | Mrs.Ramya V. Rao                                                                                                       |
| For Respondents 3&4 | : | R3 and R4 were set <i>ex-parte</i> before the Tribunal. Hence, notice to R3 and R4 is dispensed with in this Judgment. |

**C.M.A. NO.1629 OF 2024**

M.S.Arumugam (Died)

1.A.Malliga

2.A.Vijayabaskaran

... Appellants /  
Petitioners

***Vs.***

1.Kathirvel

2.Dhanalakshmi

3.The Divisional Manager

The New India Assurance Co. Ltd.,

DO No.30, JN Street,

Puducherry – 605 001.

... Respondents /  
Respondents



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**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to enhance the compensation awarded in Award dated August 16, 2022 made in M.C.O.P. No.702 of 2016 on the file of the Motor Accidents Claims Tribunal [1<sup>st</sup> Additional District & Sessions Judge (FAC)] Cuddalore.

For Appellants : Mrs.Ramya V. Rao

For Respondents 1&2 : R1 and R2 were set *ex-parte* before the Tribunal. Hence, notice to R1 and R2 is dispensed with vide this Court's Order dated April 5, 2024.

For Respondent – 3 : Mr.M.Krishnamoorthy

**C.M.A. NO.1671 OF 2024**

1.R.Durairaj  
2.Pavunu  
3.D.Bakkiyam  
4.D.Malarvizhi

... Appellants /  
Petitioners

*Vs.*

1.Kathirvel  
2.Dhanalakshmi  
3.The Divisional Manager  
The New India Assurance Co. Ltd.,  
DO No.30, JN Street,  
Puducherry – 605 001.

... Respondents /  
Respondents



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**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to enhance the compensation awarded in Award dated August 16, 2022 made in M.C.O.P. No.704 of 2016 on the file of the Motor Accidents Claims Tribunal [1<sup>st</sup> Additional District & Sessions Judge (FAC)] Cuddalore.

For Appellants : Mrs.Ramya V. Rao

For Respondents 1&2 : R1 and R2 were set *ex-parte* before the Tribunal. Hence, notice to R1 and R2 is dispensed with vide this Court's Order dated April 4, 2024.

For Respondent – 3 : Mr.M.Krishnamoorthy

**C.M.A. NO.2901 OF 2024**

1.A.Rajendran

2.Poongodi

... Appellants /  
Petitioners

***Vs.***

1.Kathirvel

2.Dhanalakshmi

3.The Divisional Manager

The New India Assurance Co. Ltd.,

DO No.30, JN Street,

Puducherry – 605 001.

... Respondents /  
Respondents

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to enhance the compensation awarded in Award dated August 16, 2022 made in M.C.O.P. No.703 of 2016 on the file of the Motor Accidents Claims Tribunal [1<sup>st</sup> Additional District & Sessions Judge (FAC)] Cuddalore.



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For Appellants : Mrs.Ramya V. Rao

For Respondents 1&2 : R1 and R2 were set *ex-parte* before the Tribunal. Hence, notice to R1 and R2 is dispensed with in this Judgment.

For Respondent – 3 : Mr.M.Krishnamoorthy

### **COMMON JUDGMENT**

#### **R.SAKTHIVEL, J.**

Essentially, this is a case where a car ran into a canal and four people including the driver passed away. The families of three deceased occupants of the car filed M.C.O.P. Nos.702, 703 and 704 of 2016 against parents of the other deceased, who is the owner of the car, as well as the car's insurer, alleging that the deceased owner of the car was at the wheel and responsible for the accident. The 'Motor Accident Claims Tribunal [I Additional District & Sessions Judge (FAC)], Cuddalore' ['Tribunal' for short] through a common Award dated August 16, 2022, disposed of the said Claim Petitions.

2. Feeling aggrieved by the Award dated August 16, 2022, passed in M.C.O.P. Nos.702 of 2016 by the Tribunal, the third respondent



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therein - Insurance Company has preferred C.M.A.No.2863 of 2022,  
praying to set aside the same.

3. Feeling aggrieved by the compensation awarded vide the common Award passed by the Tribunal in M.C.O.P. Nos.702, 703 and 704 of 2016, the petitioners / claimants in the Claim Petitions have preferred C.M.A. Nos.1629, 1671 and 2901 of 2024 respectively, praying for enhancement of compensation.

4. Hereinafter, for the sake of convenience, the parties will be denoted as per their nomenclature in Original Petitions.

**CASE OF THE PETITIONERS IN BRIEF:**

5. Between 20.00 hours on December 10, 2015 and 11.00 hours on December 11, 2015, the deceased persons, namely A.Elakkiyarasan, R.Manikandan, D.Parthiban and Arunkumar, were travelling in a Volkswagen Car bearing Registration No.TN-31-BE-7777 owned by the deceased - Arunkumar. According to the petitioners, the deceased - Arunkumar, was driving the car in a rash and negligent manner. Consequently, the car fell into the NLC Drainage Canal (*Odai*),



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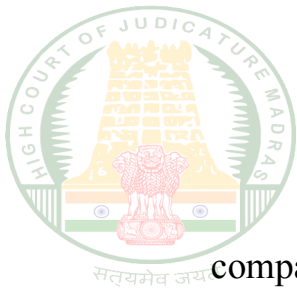
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situated on the south of Nehru Park, Block 8, Neyveli TS. In the said accident, all four occupants including driver passed away on the spot.

**5.1.** The parents and brother of the deceased - A.Elakkiyarasan filed the claim petition in M.C.O.P. No.702 of 2016 stating that the A.Elakkiyarasan, a B.E. Graduate in Electrical and Electronics Engineering, aged 22 years at the time of accident, was working in a private company in SIPCOT, Cuddalore and thereby earned a sum of Rs.35,000/- per month.

**5.2.** Similarly, the parents of the deceased - R.Manikandan filed a claim petition in M.C.O.P. No.703 of 2016 stating that the deceased -R.Manikandan, a B.E. Graduate (Civil Engineering), aged 23 years at the time of accident, was working in a private company in Coimbatore and earning a sum of Rs.50,000/- per month.

**5.3.** Similarly, the parents and sisters of the deceased - D.Parthiban filed a claim petition in M.C.O.P. No.704 of 2016 stating that the deceased - D.Parthiban, aged 23 years at the time of accident, was a Diploma holder in Mechanical Engineering and was working in a private



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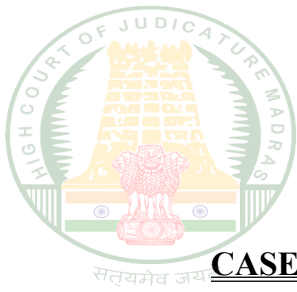
company in Neyveli and earning a sum of Rs.35,000/- per month.

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**5.4.** According to the petitioners, the car involved in the accident was insured with the third respondent – Insurance Company at the time of accident. The respondents 1 and 2 are the parents of the deceased - Arunkumar, who is the owner cum driver of the car. Thus, the respondents are liable to pay compensation to them. Accordingly, the families of the three deceased persons sought for a compensation of Rs.1,00,00,000/- each (Rupees One Crore only).

#### **FIRST AND SECOND RESPONDENT**

**6.** The first and second respondents, who are the parents of the deceased – Arunkumar, the owner of the car involved in the accident, remained absent and were set *ex-parte* by the Tribunal. Notice to them in C.M.A. Nos.1629 and 1671 were already dispensed with by this Court's Orders dated April 5, 2024 and April 4, 2024 respectively. Notice to them in C.M.A. No.2863 of 2022 and C.M.A. No.2901 of 2024 is hereby dispensed with.



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**CASE OF THE THIRD RESPONDENT**

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7. The third respondent filed counter in each of the aforesaid Claim Petitions, the sum and substance of which are essentially the same. The main contention of the third respondent is that it is not Arunkumar but A.Elakkiyarasan who drove the car. It denied the petition averments as false and contended that the petitioners are put to strict proof of the same. It further denied the validity of driving licence of the driver of the car as well as the validity of the car's Registration Certificate, Fitness Certificate, *etc.* It further contended that the deceased individuals might have invited the accident and hence the petitioners are not entitled to any compensation.

**TRIBUNAL**

8. In order to prove their case, the petitioners, examined P.W.1 to P.W.6 and marked Ex-P.1 to Ex-P.36. 1<sup>st</sup> and 2<sup>nd</sup> respondents did not contest the case as stated *supra*. On the side of the 3<sup>rd</sup> respondent, no witness was examined. However, Ex-R.1 and Ex-R.2 were marked through cross-examination of P.W.6.



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9. The Tribunal, based on the evidence of P.W.4 and P.W.5,

concluded that at the time of accident, the deceased - A.Elakkiyarasan, R.Manikandan, and D.Parthiban were only travelling in the car as passengers and the accident occurred due to the rash and negligent driving of the deceased - Arunkumar, who was the owner of the car. At the time of accident, the car was insured with the third respondent – Insurance Company. Hence, the third respondent is liable to pay compensation. Accordingly, the Tribunal awarded compensation as tabulated hereunder:

| <b><u>M.C.O.P.No.704 of 2016 (C.M.A. No.1671 of 2024)</u></b> |                                                                                  |                      |
|---------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------|
| <b><i>Sl.No.</i></b>                                          | <b><i>Head</i></b>                                                               | <b><i>Amount</i></b> |
| 1                                                             | Loss of Income                                                                   | Rs.15,72,480.00      |
| 2                                                             | Loss of Parental Consortium<br>(1 <sup>st</sup> and 2 <sup>nd</sup> Petitioners) | Rs.88,000.00         |
| 3                                                             | Funeral expenses                                                                 | Rs.16,500.00         |
| 4                                                             | Loss of estate                                                                   | Rs.16,500.00         |
| 5                                                             | Transportation charges                                                           | Rs.10,000.00         |
|                                                               | Total                                                                            | Rs.17,03,480.00      |



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| <b><u>M.C.O.P.No.702 of 2016 (C.M.A. Nos.1629/of 2024 and<br/>2863/2022)</u></b> |                                                             |                        |
|----------------------------------------------------------------------------------|-------------------------------------------------------------|------------------------|
| <b><i>Sl.No.</i></b>                                                             | <b><i>Head</i></b>                                          | <b><i>Amount</i></b>   |
| 1                                                                                | Loss of Income                                              | Rs.27,21,600.00        |
| 2                                                                                | Loss of Parental Consortium<br>(2 <sup>nd</sup> petitioner) | Rs.44,000.00           |
| 3                                                                                | Funeral expenses                                            | Rs.16,500.00           |
| 4                                                                                | Loss of estate                                              | Rs.16,500.00           |
| 5                                                                                | Transportation charges                                      | Rs.10,000.00           |
|                                                                                  | <b>Total</b>                                                | <b>Rs.28,08,600.00</b> |

| <b><u>M.C.O.P.No.703 of 2016 (C.M.A. No.2901 of 2024)</u></b> |                                                                                  |                      |
|---------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------|
| <b><i>Sl.No.</i></b>                                          | <b><i>Head</i></b>                                                               | <b><i>Amount</i></b> |
| 1                                                             | Loss of Income                                                                   | Rs.27,21,600.00      |
| 2                                                             | Loss of Parental Consortium<br>(1 <sup>st</sup> and 2 <sup>nd</sup> Petitioners) | Rs.88,000.00         |
| 3                                                             | Funeral expenses                                                                 | Rs.16,500.00         |
| 4                                                             | Loss of estate                                                                   | Rs.16,500.00         |
| 5                                                             | Transportation charges                                                           | Rs.10,000.00         |
|                                                               | <b>Total</b>                                                                     | <b>28,52,600.00</b>  |

**10.** Feeling aggrieved over the Award passed in M.C.O.P. No.702 of 2016, the third respondent – Insurance Company has preferred the Civil Miscellaneous Appeal in C.M.A. No.2863 of 2022 questioning its liability in the said Claim Petition. Whereas, the petitioners have preferred the other Civil Miscellaneous Appeals seeking enhancement of compensation.



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**11.** To be noted, the Insurance Company has not questioned its liability in the other two Claim Petitions viz., M.C.O.P. Nos.703 and 704 of 2016. The contention of the third respondent – Insurance Company is that at the time of accident, A.Elakkiyarasan was at the wheel and the accident had occurred only due to his rash and negligent driving and hence, his family members are not entitled to seek compensation.

### **ARGUMENTS**

**12.** Mr.M.Krishnamoorthy, learned Counsel for the Insurance Company would submit that a complaint was given by the brother of A.Elakkiyarasan and based on that complaint, Ex-P.1 - First Information Report (FIR) was registered against A.Elakkiyarasan under Sections 279 and 304(A) of the Indian Penal Code, 1860. Ex-P.1 clearly shows that the deceased -Arunkumar, owner of the car, did not drive the car at the time of accident. All the claimants relied on Ex-P.1 – FIR in support of their case. But in Ex-P.1 - FIR itself, it has been specifically stated that A.Elakkiyarasan was driving the car. The claimants either have to accept the FIR or reject it *in toto*; they cannot partially accept the averments contained in the FIR. The Tribunal grossly erred in concluding that the



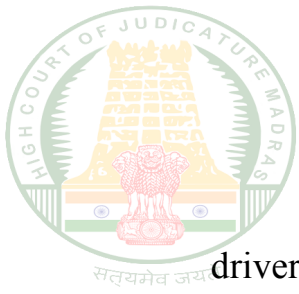
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deceased - Arunkumar was driving the car at the time of accident, as well as in fixing the liability on the Insurance Company in M.C.O.P. No.702 of 2016, by relying on Ex-P.1 – FIR. Accordingly, he would pray to set aside the Award passed in M.C.O.P. No.702 of 2016 and dismiss the Civil Miscellaneous Appeal in C.M.A. No.1629 of 2024.

**12.1.** Further, as regards M.C.O.P. Nos.703 and 704 of 2016, he would submit that the Tribunal rightly fixed the quantum of compensation and there is no need to enhance the compensation. Accordingly, he would pray to dismiss the Civil Miscellaneous Appeals in C.M.A. Nos.1671 and 2901 of 2024.

**13.** On the other hand, Mrs.Ramya V.Rao, learned Counsel for the claimants would contend that there is no eye witness in this case. P.W.5 is the person who first found the car lying in the canal and informed the police at about 11 hours on December 11, 2015. He has deposed that, upon his information to the police, crane was brought to the location to remove the car from the canal. P.W.4 – Kalaichelvan, brother of A.Elakkiyarasan, has deposed that police obtained his signatures in blank papers, at the place of occurrence and that Arunkumar was found in the



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driver seat while Elakkiyarasan was found in the back seat when the car was lifted out of the canal using crane. To that effect, he has marked Ex-P.32 – Photographs. Further, the first petitioner in M.C.O.P. No.702 of 2016 / father of Elakkiyarasan sent Ex-P.17 - Notice dated January 7, 2016 to the Inspector of Police, Neyveli TS Police Station and the same was received by the Inspector. It has been stated in Ex-P.17 - Notice that Kalaichelvan never preferred any complaint as if Elakkiyarasan was driving the car and hence, called upon the Inspector to re-investigate the matter in a fair and proper manner. Evidence of P.W.4 coupled with Ex-P.32 – Photographs would make it clear that the accident occurred due to the rash and negligent driving of the deceased - Arunkumar. The Tribunal was right in fixing the negligence on the part of the deceased – Arunkumar and therefore, the appeal filed by the Insurance Company is liable to be dismissed.

**13.1.** As regards quantum of compensation awarded in M.C.O.P. Nos.702 and 703 of 2016, she would submit that the deceased – Elakkiyarasan & Manikandan had completed B.E. Degree in first class. While the former is a meritorious student as evident from Ex-P.20, the latter is not only strong in academics but also excels in sports as evident



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from Exs-P.25 – P.29. Considering these facts, the monthly income of Rs.18,000/- fixed by the Tribunal is on the lower side.

**13.2.** As regards quantum of compensation awarded in M.C.O.P. No.704 of 2016, she would submit that the deceased - Parthiban is a Diploma holder in Mechanical Engineering earning Rs.10,400/- at the time of accident. However, considering his educational qualification and the job prospectus associated with it, the Tribunal ought to have taken a fair and proper notional income of at least Rs.15,000/-.

**13.3.** Accordingly, she would pray for enhancement of compensation in all the three claim petitions.

### **DISCUSSION:**

**14.** Heard on either side and perused the materials available on record.

### **Negligence and Liability**

**15.** Admittedly, there is no ocular witness in this case and there is no dispute with regard to the involvement of the deceased – Arunkumar's car in the accident. Ex-P.5 – Motor Vehicle Inspection



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Report [M.V.I. Report] clarifies that the accident did not occur due to any mechanical defect. Exs-P.2, P.14 and P.23 are the post-mortem reports of the deceased persons other than Arunkumar. They show that the respective deceased persons had sustained accidental injuries all over their body and internally as well. These post-mortem reports and Ex-P.5 coupled with the evidence of P.W.4 and P.W.5 would establish that the accident occurred due to the rash and negligent driving of the car. P.W.5 – Sahadhevan is the person who first spotted the car lying in the canal and first informed the police at about 11 hours on December 11, 2015. P.W.4, brother of Elakkiyarasan, in his evidence has deposed that on December 11, 2015 at about 14 hours, he learnt about the accident and rushed to the spot, and upon reaching the spot, he found the car being lifted out of the canal using crane. He has further deposed that when the car was lifted out, the deceased - Arunkumar was found in the driver seat and his brother – Elakkiyarasan was found in the back seat, both in a lifeless state. To that effect, he filed Ex-P.32 – Photographs. Furthermore, he has deposed that at that time, the police personals obtained his signatures on blank papers on the pretext of post-mortem purposes and that he never gave any written complaint. Further he has deposed that



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only after a month, he learnt that FIR was issued against his brother and therefore, his father caused Ex-P.17 -Notice to the police clarifying that he never preferred such a complaint. In these circumstances, onus shifts onto the Insurance Company to prove that the deceased - A.Elakkiyarasan was driving the car at the time of accident.

16. Despite cross-examination, the 3<sup>rd</sup> respondent was not able to shake the evidence of P.W.4. The evidence of P.W.4 and P.W.5 were not controverted by the Insurance Company. It is settled position of law that FIR is not an encyclopaedia. When P.W.4 takes a specific stand that he did not prefer any complaint as stated *supra*, the Insurance Company ought to have examined the Investigation Officer to support of its contention that it was Elakkiyarasan who was at the wheel. The Insurance Company failed to examine the Investigation Officer or any other witness in this regard. It has not discharged its onus. In the facts and attending circumstances of the case, the evidence of P.W.4 and P.W.5 are believable and trustworthy. This Court finds no reason to reject the same.

17. Further contention of the Insurance Company is that the deceased were in an inebriated mood and thereby invited the accident.



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There is not even an iota of evidence to suggest that the deceased persons were drunk. The Insurance Company failed to call for the chemical analysis report of the viscera of the deceased persons. It nor examined the post-mortem doctor. Since the said contention is baseless and not backed by any evidence, it deserves to be rejected.

18. The Tribunal upon appreciating the evidence in the right perspective, after an elaborate discussion on the evidentiary value of the FIR in this case, has rightly fixed negligence on the part of the deceased – Arunkumar. Ex-P.6 is the Insurance Policy issued by the 3<sup>rd</sup> respondent covering the car involved in the accident. It was live on the date of accident. It is a package policy and therefore, covers the passengers too. From the evidence available on record, there appears to be no violation of the terms of the policy. Hence, the Tribunal is right in fastening liability on the Insurance Company. Therefore, the Tribunal is right in finding Arunkumar negligent and fixing liability on the Insurance Company in all the three claim petitions. Thus, the appeal filed by the Insurance Company must fail.

**Quantum of Compensation in M.C.O.P. Nos.702 and 703 of 2016**



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**19.** With regard to the quantum of compensation in M.C.O.P. No.702 of 2016 [C.M.A. No.1629 of 2024] and M.C.O.P.No.703 of 2016 [C.M.A. NO.2901 OF 2024], as per Ex-P.18 – Provisional Degree Certificate, the deceased - A.Elakkiyarasan was a first class - B.E. Graduate in Electrical and Electronics Engineering. Ex-P.20 and Ex-P.21 are certificates issued in favour of Elakkiyarasan for participation in an engineering related conference and a technical training program. From the perusal of Ex-P.20 and Ex-P.21 coupled with Ex-P.18, he appears to be an academically strong and oriented champ. His date of birth as per Ex-P.19 is August 28, 1993 and hence, his completed age as on the date of accident is 22 years. His family claims that he was earning Rs.35,000/- per month, however, there is no evidence available on record to substantiate the same.

**20.** Similarly, the deceased - Manikandan had graduated in B.E. Civil Engineering in first class as per Ex-P.24 – Convocation Certificate. He was aged 23 years at the time of accident as evident from Ex-P.25 – Sports Certificate as well as from Ex-P.23 – Post-mortem Report. Exs-P.25 to P.28 are his sports certificates and Ex-P.29 is his participation certificate in a technical symposium. He appears not only to

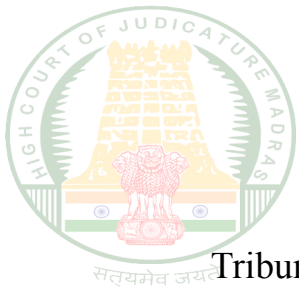


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be an academically oriented student, but also appears to be involved in sports and had won district level competition in badminton, in view of Ex-P.25 to Ex-P.29. His family claimed that he was earning Rs.50,000/- per month by working in a private company in Coimbatore, however, the same was not substantiated with any acceptable evidence.

21. Owing to the absence of oral and documentary evidence to prove the income of A.Elakkiyarasan and Manikandan, the Tribunal has taken their notional income at Rs.18,000/-. Considering their age and the cost of living prevailing at the time of accident, this Court is of the view that notional income fixed at Rs.18,000/- per month is correct and there is no need to interfere with it.

22. Further, considering their age and qualifications, the Tribunal has rightly added 40% future prospects, which is in tune with the guidelines laid down by Hon'ble Supreme Court in ***National Insurance Company Limited vs. Pranay Sethi [(2017) 16 SCC 680]***. Further, considering the fact that they were bachelors at the time of accident, the Tribunal is justified in deducting 50% towards their personal expenses and further, considering their age, the multiplier of 18 adopted by the



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Tribunal is appropriate. Both, the personal deduction and the multiplier, are in tune with *Sarla Verma Vs. Delhi Transport Corporation [(2009) 6 SCC 121]*.

23. The Tribunal rightly relied on various Judgments of the Hon'ble Supreme Court as well as this Court, including *Sarla Verma's Case* and *Pranay Sethi's Case* and rightly awarded compensation under the heads of 'loss of consortium, loss of estate, funeral expenses and transportation charges'.

24. Thus, there is no need to interfere with the quantum of compensation awarded by the Tribunal in M.C.O.P. No.702 of 2016 to the parents and brother of Elakkiyarasan, as well as in M.C.O.P. No.703 of 2016 to the parents of Manikandan. Therefore, C.M.A. Nos.1629 and 2901 of 2024 must fail.

#### **Quantum of Compensation in M.C.O.P. No.704 of 2016**

25. With regard to the quantum of compensation in M.C.O.P. No.704 of 2016 [C.M.A. NO.1671 OF 2024], Ex-P.8 is the deceased-Parthiban's Convocation Certificate, Ex-P.9 is his Consolidated Marksheet and Ex-P.10 is his Transfer Certificate. They were all issued

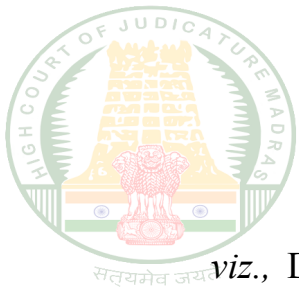


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upon his completion of Diploma course in Mechanical Engineering. Ex-P.7 – 10<sup>th</sup> Grade Marksheet coupled with Ex-P.2 – Post-mortem Report would show that his age at the time of accident was 23 years.

**26.** His family claims that he was earning Rs.35,000/- per month by working in a private company in Neyveli. The petitioners filed his pay slip (Ex-P.12) for September 2015, which shows that he was employed as a temporary employee at Babu Engineering Corporation Limited. The employer was examined as P.W.6 and he marked Ex-P.35 – Wage Register. Further, through his cross-examination, Ex-R.1 – Salary Statement of the deceased and Ex-R.2 – Register of Employees were marked. The identity card of the deceased is marked as Ex-P.13. From these documents it is seen that the last drawn salary of the deceased was in the month of September 2015 and that it was a sum Rs.10,400/-. Based on the last drawn salary, the Tribunal fixed his monthly income at Rs.10,400/-.

**27.** Had the family of Parthiban not let in his pay slip and examined P.W.6, the Tribunal would have naturally fixed his income notionally. If notional income is to be fixed, in view of his qualification

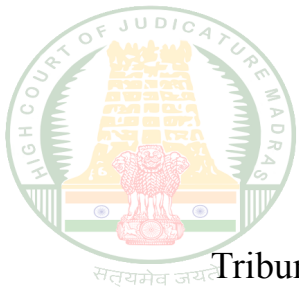


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viz., Diploma in Mechanical Engineering, it would definitely be higher than his last drawn salary. The age of the deceased was 23 years at the time of accident. P.W.6 deposed that the deceased was working with them for almost a year. Parthiban, being a fresher, probably joined the employer to horn his practical knowledge and skills and thereby enrich his future job prospects, which would be the case with most of the Diploma students. Upon working there for almost a year, he would have naturally gained a good amount of practical knowledge and skills, and thus, his job prospects would have got enriched. With such enriched job prospects, he would be able to earn more than the monthly salary at the time of his death. In the facts and circumstances of this case, this Court is of the view that merely because proof of income has been adduced, there is no bar to fix his income notionally. Moreso, his last drawn salary is on the lower side. Considering the age of Parthiban at the time of accident, the fact that the deceased was a Diploma holder in Mechanical Engineering as well as the rich job prospects available in the Neyveli locality for a Mechanical Engineer, this Court is inclined to fix his income at Rs.13,500/- on notional basis.

**28.** Further, considering his age and qualifications, the



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Tribunal has rightly added 40% future prospects, which is in tune with ***Pranay Sethi's Case***. Further, considering the fact that he was a bachelor at the time of accident, the Tribunal is justified in deducting 50% towards personal expenses as bachelor's would tend to spend more on themselves. Further, considering his age, the multiplier of 18 adopted by the Tribunal is appropriate. Deduction towards personal expenses and the multiplier adopted by the Tribunal, both are in tune with ***Sarla Verma's Case***.

29. The Tribunal rightly relied on various Judgments of the Hon'ble Supreme Court as well as this Court, including ***Sarla Verma's Case*** and ***Pranay Sethi's Case*** and awarded compensation under the heads of 'loss of consortium, loss of estate, funeral expenses and transportation charges' in M.C.O.P. No.704 of 2016. This Court finds no reason to interfere with the compensation awarded therein under the heads other than loss of income.

30. Thus, C.M.A. NO.1671 of 2024 is to be partly-allowed and the appellants therein are entitled to modified compensation as tabulated hereunder:

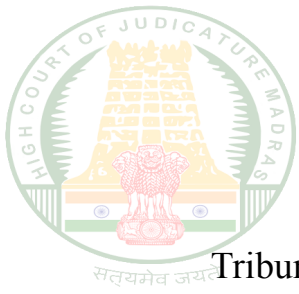


| <b>Sl. No.</b>                                                                                                                                                     | <b>Head</b>                                                                                    | <b>Amount</b>          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|------------------------|
| 1                                                                                                                                                                  | Loss of Income<br>{[Rs.13,500/- (NI) + 40% of Rs.13,500/- (FP)] X<br>½ (PD) X 12 (m) X 18 (M)} | Rs.20,41,200.00        |
| 2                                                                                                                                                                  | Loss of Parental Consortium<br>(1 <sup>st</sup> and 2 <sup>nd</sup> Petitioners)               | Rs.88,000.00           |
| 3                                                                                                                                                                  | Funeral expenses                                                                               | Rs.16,500.00           |
| 4                                                                                                                                                                  | Loss of estate                                                                                 | Rs.16,500.00           |
| 5                                                                                                                                                                  | Transportation charges                                                                         | Rs.10,000.00           |
| <b>Total</b>                                                                                                                                                       |                                                                                                | <b>Rs.21,72,200.00</b> |
| <b>Note:</b> 'NI' denotes 'Notional Income', 'FP' denotes 'Future Prospects', 'm' denotes 'months', 'PD' denotes 'Personal Deduction' and 'M' denotes 'multiplier' |                                                                                                |                        |

**31.** The Insurance Company is directed to deposit the Award amount now determined by this Court along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment. Upon such deposit, the same shall be split between the petitioners in M.C.O.P. No.704 of 2016 in a manner proportionate to the apportionment made by the Tribunal. In all other aspects, the Award of the Tribunal in M.C.O.P. No.704 of 2016 is confirmed.

### **CONCLUSION:**

**32.** To sum up, this Court finds no perversity or illegality in the common Award passed by the Tribunal in respect of M.C.O.P. Nos.702 and 703 of 2016 and therefore, the same is hereby confirmed. The



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Tribunal ought to awarded more compensation under the head of loss of income in M.C.O.P. No.704 of 2016 and accordingly, this Court has enhanced the compensation awarded therein as detailed above. To that extent alone, the common Award passed by the Tribunal in respect of M.C.O.P. No.704 of 2016 is to be modified.

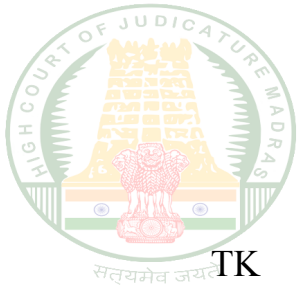
**33.** In fine, the Civil Miscellaneous Appeals in C.M.A. Nos.2863 of 2022 and 1629 & 2901 of 2024 are dismissed. The Civil Miscellaneous Appeal in C.M.A. No.1671 of 2024 is partly-allowed by awarding an enhanced compensation of Rs.21,72,200/- as stated *supra*. Considering the facts and circumstances of the case, the parties shall bear their own costs for these Civil Miscellaneous Appeals. Connected Miscellaneous Petition is closed.

[J.N.B., J.]

[R.S.V., J.]

**07 / 01 / 2025**

Index : Yes  
Neutral Citation : Yes  
Speaking Order : Yes



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To

The Motor Accidents Claims Tribunal

[1<sup>st</sup> Additional District & Sessions Judge (FAC)]

Cuddalore.



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1629, 1671 & 2901 of 2024

**J.NISHA BANU, J.**  
**AND**  
**R.SAKTHIVEL, J.**  
TK

**PRE-DELIVERY COMMON JUDGMENT MADE IN**  
**C.M.A. NOS.2863 OF 2022**  
**AND**  
**1629, 1671 AND 2901 OF 2024**

**07 / 01 / 2025**