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CMA No. 3091 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 3091 of 2024

AND

CMP NO. 25454 OF 2024,CROS.OBJ NO. 36 OF 2025

1. The New India Assurance Co. Ltd.

Situated at Dhurugam Main Road,
Kallakurichi.

Appellant(s)

Vs

1. Sankar

S/o. Subrayan, Res. at No.230, North
Street, Thiyagai Village, Kallakurichi
Tk and Dt.

2.Govindhammal

No.230, North Street, Thiyagai Village,
Kallakurichi Taluk and District.

3.Santhiya

D/o. Sankar, No.230, North Street,
Thiyagai Village, Kallakurichi Taluk
and District.

4.Minor Muniyan

S/o. Sankar (Rep. by next friend/father
sankar the 1st petitioner), res. at



No.230, North Street, Thiyagai Village,
Kallakurichi Tk and Dt.

WEB 5. MOHANRAJ

S/o. Karumbayiram, Res. at New
No.100, Senthnadu Salai, Mannakudi,
Ulundurpet Tk.

6. The Branch Manager
Residing at East Street, Koovadu,
Ulundurpet.

7. VETRIVEL
S/o. Narayanan, Res. at East St,
Koovadu, Ulundurpet.

Respondent(s)

CROS.OBJ No. 36 of 2025

1. SANKAR
S/o. Subrayan, Res. at No.230, North
Street, Thiyagi Village, Kallakurichi
Taluk and Dt.

2. GOVINDHAMMAL
W/o. Sankar, Res. at No.230, North
Street, Thiyagi Village, Kallakurichi
Taluk and Dt.

3. SANTHIYA
D/o. Sankar, Res. at No.230, North
Street, Thiyagi Village, Kallakurichi
Taluk and Dt.

4. Minor Muniyan
S/o. Sankar, (Rep. by next friend father
Sankar the 1st respondent) Res. at



No.230, North Street, Thiyaagi Village,
Kallakurichi Taluk and Dt.

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Appellant(s)

Vs

1. The New India Assurance Co.Ltd.,
Situated at Durgam Road, Kallakurichi.

2.MOHANRAJ

S/o. Karumbayiram, Res. at New
No.100, Senthnanadu Salai Nagar,
Mannakudi, Ulundurpet Taluk.

3.The Branch Manager

United India Insurance Co. Ltd.
Situated at Salem Main Road,
Kallakurichi.

4.VETRIVEL

S/o. Narayanan, Res. at East Street,
Koovadu, Ulundurpet Taluk.

Respondent(s)

CMA No. 3091 of 2024

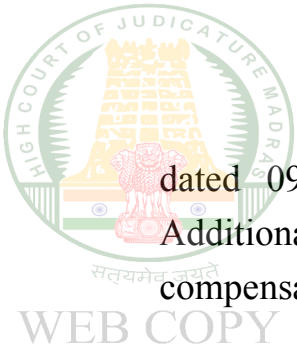
PRAYER

To set aside the decree and Judgment dated 09.02.2024 made in MCOP No.345 of 2020, on the file of Motor Accident Claims Tribunal III Additional District Court, Villupuram at Kallakurichi.

CROS.OBJ No. 36 of 2025

PRAYER

To allow the Cross Objection by dismissing the appeal preferred by the insurance company in CMA No. 3091 of 2024 against MCOP No. 345 of 2020,



dated 09.02.2024 on the file of Motor Accidents Claims Tribunal, (III Additional District Court), Villupuram, at Kallakurichi by enhancing the compensation granted in MCOP No. 345 of 2020 and thus render justice.

CMA No. 3091 of 2024

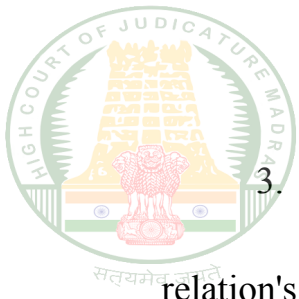
For Appellant(s): Mr.S. Dhakshnamoorthy

For Respondent(s): Mr. Amar Dineshbhai Pandiya
For Rr 1 To 4 R-5 And R7 - No
Appearance Mr. S. Arunkumar
For R6

COMMON JUDGMENT

CMA No. 3091 of 2024 has been filed to set aside the decree and Judgment dated 09.02.2024 made in MCOP No.345 of 2020, on the file of Motor Accident Claims Tribunal III Additional District Court, Villupuram at Kallakurichi.

2. Cross Objection No. 36 of 2025 has been filed by the claimant against MCOP No. 345 of 2020, dated 09.02.2024 on the file of Motor Accidents Claims Tribunal, (III Additional District Court), Villupuram, at Kallakurichi by enhancing the compensation granted in MCOP No. 345 of 2020. For the sake of convenience the appellant in CMA No. 3091 is denoted as Insurance Company and cross objectors in Cross Obj. No. 36 of 2025 is denoted as claimants.



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3. On 06.10.2020 at about 07.00 p.m., while the deceased went to his relation's funeral occasion from Thiyagai Village to Koothanur in the two wheeler bearing registration No. TN 15 D 0867(Splendor Plus) and while he was driving the vehicle between Elavanarasumkottai to Koothanur Road near Erayurpalayam Tamil Digital from South to North, at that time, the third respondent drove the two wheeler bearing registration No. TN 15 C 4281(CB Shine) in a rash and negligent manner on the opposite directions suddenly dashed against the deceased, thereby the deceased fell down and lorry bearing registration No. TN 46 M 4978 dashed the deceased due to which the sustained grievous injuries and died on spot. Thereafter the claimants filed the petition before the tribunal claiming compensation and 2nd and 3rd respondent contested the case by filing counter. After considering the oral and documentary evidence the tribunal awarded compensation. Challenging the award passed by the tribunal the insurance company filed the appeal and claimants filed cross objection to enhance the compensation.

4. The learned counsel for the Insurance company submits that at the time of the accident the deceased has driven the two wheeler in a rash and negligent



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manner when he attempted to over take the lorry he dashed against the two wheeler bearing registration No. TN 15 C 4281(CB Shine) he fell down and lorry bearing registration TN 46 M 4978 dashed the deceased and he died. There is negligence on the part of the deceased but without considering the above, the tribunal has fixed 50% negligence upon the said vehicle bearing registration No. TN 15 C 4281(CB Shine) as such is illegal and liable to be set aside.

5. The learned Counsel appearing for the claimants submit that the at the time of the accident deceased was driving the two wheeler dashed against the opposite two wheeler and fell down at that time the lorry belongs to the seventh respondent ran over the deceased. Therefore, the tribunal has rightly fixed 50% liability upon the opposite two wheeler and 50% upon the lorry. Further, he submits that the tribunal has awarded very less amount. Hence, he prays to enhance the compensation.

6. Considering the fact that the at the time of the accident deceased was riding two wheeler bearing registration No. TN 15 D 0867 when he attempted to take over the lorry he dashed against the opposite two wheeler fell down and lorry bearing registration No. TN 46 M 4978 ran over the deceased. Therefore,

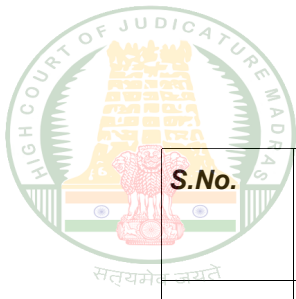


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the fact reveals that there is negligence upon deceased but the tribunal has failed to take note of the same erroneously fixed 50% liability upon rider of the opposite two wheeler as such is erroneous. Considering the above, this Court is inclined to reduce the liability fixed upon the opposite motorcycle from 50% to 25% which was insured with the appellant/the Insurance Company there are liable to pay the compensation and also this court fix 25% liability upon the deceased. Further, the tribunal has rightly fixed 50% liability fixed upon the driver of the lorry bearing registration No. TN 46 M 4978, Which needs no interference.

7. As far as enhancement of compensation is concerned. The accident was happened in the year 2020 and ha was working as mechanic. Hence, this Court is inclined to enhance the notional income fixed by the tribunal from Rs. 9,000/- to Rs.18,000/-. Accordingly, the claimants are entitled to Rs. 36,28,800/- $(18,000+7200 \times 12 \times 18-1/3)$ under the head of loss of dependency.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of dependency	Rs. 18,14,400/-	Rs. 36,28,800/-
2.	Loss of estate	Rs.15,000/-	Rs.15,000/-
3.	Loss of love and affection	Rs.1,00,000/-	Rs.1,00,000/-
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-



S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
5.	Transportation charges	Nil	Nil
	Total	Rs.19,44,400/-	Rs.37,58,800/-

8. As discussed above, this Court fix 25% contributory negligence upon the deceased and 25% upon the appellant in CMA No. 3091 of 2024. Accordingly, the claimant is entitled to Rs. 28,19,100/-. The appellant in CMA No. 3091 of 2024 is directed to deposit a sum of Rs.9,39,700/- and sixth respondent in CMA No. 3091 of 2024 is directed to deposit a sum of Rs.18,79,400/- to the credit of MCOP No. 345 of 2020 on the file of Motor Accidents Claims Tribunal, (III Additional District Court), Villupuram, at Kallakurichi together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation. The first claimant is entitled to Rs. 8,00,000/- and second claimant is entitled to Rs.13,58,800/- and third claimant is entitled to Rs. 8,00,000/- and fourth claimant is entitled to Rs.8,00,000/- and the minors shall be deposited in the nationalized bank until they attaining their majority and they are permitted to withdraw the interest every quarter. On such deposit, the claimants are permitted to withdraw the award amount by making formal application



before the Tribunal. The respondent may deduct the amount, if any amount has already deposited before the tribunal. In so far as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimant(s).

9. With the above direction, the Civil Miscellaneous Appeal is disposed of and Cross Objection is partly allowed. No costs. Pending petition, if any, is/are closed.

12-08-2025

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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 at Kallakurichi.
2. The Section officer, V.R Section, High Court, Madras.



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T.V.THAMILSELVI J.
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**CMA No. 3091 of 2024
AND CMP NO. 25454
OF 2024,CROS.OBJ
NO. 36 OF 2025**

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