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CMA No. 1351 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CMA No. 1351 of 2025,
Cross Objection No.44 of 2025 and
CMP.No.11499 of 2025**

CMA No. 1351 of 2025

1. Reliance Gen.Ins.Co.Ltd
Reliance Tower, No.6, Haddows Road,
Nungambakkm, Chennai-600 006

Appellant(s)

Vs

1. Adapakala Jansi Laxmibhai
W/o. Adapakala Bhaskara Rao,
Residing at Plot No.50, 2nd Street,
judges Colony, Rajesh Garden,
Noombal, Chennai-600 077

2.Adapakala Sarmila(Minor)
D/o. late Adapakala Bhaskara Rao,
Minor Rep by the Adapakala jansi
laxmibhai,Residing at Plot No.50, 2nd
Street, judges Colony, Rajesh Garden,
Noombal, Chennai-600 077



3. Adapakala Eshita (Minor)

Minor Rep by the Adapakala jansi
laxmibhai, Residing at Plot No.50, 2nd
Street, judges Colony, Rajesh Garden,
Noombal, Chennai-600 077

4. Adapakala Neelaveni

W/o. Adapakala Trianadha Rao,
Residing at Plot No.50, 2nd Street,
judges Colony, Rajesh Garden,
Noombal, Chennai-600 077

5. Adapakala Trinadha Rao,

S/o. Late Varahalu, Residing at Plot
No.50, 2nd Street, judges Colony,
Rajesh Garden, Noombal, Chennai-600
077

6. M Ramesh

No.2/164, Avadi Road,
Senneerkuppam, Chennai-600 056

Respondent(s)

Cross Objection No.44 of 2025:

1. Adapakala Jansi Laxmibhai

W/o. Adapakala Bhaskara Rao,

2. Adapakala Sarmila (Minor)

D/o. late Adapakala Bhaskara Rao,

3. Adapakala Eshita (Minor)

D/o. late Adapakala Bhaskara Rao,
Minors are Rep by their mother & next
friend Mrs. Adapakala jansi laxmibhai.



4. Adapakala Neelaveni
W/o. Adapakala Trianadha Rao,

5. Adapakala Trinadha Rao,
S/o. Late Varahalu,

....Cross Objectors

Vs

1. Reliance Gen.Ins.Co.Ltd
Reliance Tower, No.6, Haddows Road,
Nungambakkm, Chennai-600 006

2.M.Ramesh
No.2/164, Avadi Road,
Senneerkuppam, Chennai-56.

....Respondents

PRAYER in CMA.NO.1351 of 2025:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgement and decree dated 06-08-2024 made in MCOP.No.2597/2021 on the file of the MACT(Chief Court of Small Causes) at Chennai.

PRAYER in Cross Objection No.44 of 2025

Cross Objection filed under Section 41 Rule 22 of Code of Civil Procedure, praying to enhance the compensation amount and fix the entire liability on the 1st respondent awarded in the Judgement and decree dated 06.08.2024 made in MCOP.No.2597 of 2021 on the file of the MACT, Chief Judge, Court of Small Causes, Chennai, by allowing this Cross appeal in CMA.No.1351 of 2025 on the file of this Hon'ble Court.



For Appellant(s) in : **CMA No. 1351/ 2025**

M/s.R.Sree Vidhya

For Respondent(s) in : **CMA No. 1351/ 2025**

Mr.S.P. YUARAJ
FOR R1 TO R5

For Appellant(s) in : **Cross.Obj. No. 44/ 2025**

Mr.S.P.Yuaraj

For Respondent(s) in : **Cross.Obj. No. 44/ 2025**

M/s.R.Sree Vidhya for R1

JUDGEMENT

The appellant / insurance company has filed this appeal to set aside the judgement and decree dated 06.08.2024 made in MCOP.No.2597/2021 on the file of the MACT(Chief Court of Small Causes) at Chennai.

2. The brief facts of the case are as follows: The 1st respondent herein is the wife, respondents 2 and 3 are the daughters, and respondents 4 and 5 are the parents of the deceased, Adapakala Bhaskararao. The respondents / petitioners claimed that on 11.05.2021 at about 12:00 hours, while the deceased was riding a motorcycle bearing Registration No. TN 22 CW 4421 along with a pillion rider on Kumananchavadi–Saveetha Dental Hospital Road, in front of Essar Petrol Bunk, a van bearing Registration No. TN 12 AM 4151, driven in a rash



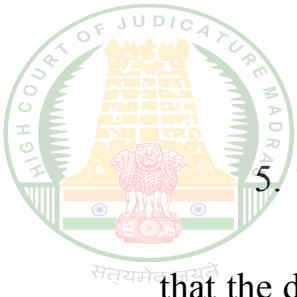
and negligent manner, hit the motorcycle. Due to the impact, the deceased fell on the road and sustained severe head injuries and multiple grievous injuries.

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He was immediately taken to A.C.S Hospital, where he succumbed to the injuries on the same day. At the time of the accident, the deceased was aged 40 years and was working as an agriculturist and mason, earning Rs.30,000/- per month. The 1st respondent is the owner, and the 2nd respondent is the insurer of the van bearing Registration No. TN 12 AM 4151. Both are liable to pay the compensation.

3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.26,66,700/- as compensation, directing the 2nd respondent to pay the said amount to the appellant along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

4. Challenging the award passed by the Tribunal, the Insurance Company has preferred this appeal.



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5. The learned counsel for the appellant /Insurance company submitted that the deceased, at the time of the accident, was not wearing a helmet and did not possess a valid driving licence. Therefore, the accident occurred due to his own negligence. However, the Tribunal erroneously fixed only 10% contributory negligence on the part of the deceased.

6. In response, the learned counsel for the claimants submitted that the Tribunal, after considering all facts and circumstances, rightly fixed the contributory negligence at 10%, which requires no interference.

7. Upon considering the fact that the deceased was not wearing a helmet and did not possess a valid driving licence at the time of the accident, this Court is of the opinion that contributory negligence should be fixed at 15% on the part of the deceased.

8. Accordingly, this Civil Miscellaneous Appeal is partly allowed to the extent of modifying the contributory negligence from 10% to 15%. There shall be no order as to costs.



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9. The cross-objection filed by the claimants, to enhance the compensation amount made in MCOP.No.2597 of 202, on the file of Motor Accident Claims Tribunal, Chief Judge, Court of small Causes, Chennai, dated 06.08.2024, is also to be considered.

10. The learned counsel for the cross-objectors / claimants submitted that the accident occurred in the year 2021. However, the Tribunal, without taking into account the cost of living prevailing in 2021, fixed a monthly income of only Rs.16,000/-, which is on the lower side. Therefore, he prayed for enhancement of the award amount.

11. Admittedly, the accident took place in the year 2021. Considering the cost of living, even assuming a daily wage of Rs.600, the monthly income would come to $\text{Rs.}600 \times 30 = \text{Rs.}18,000/-$. Therefore, the monthly income is fixed at Rs.18,000/-. In addition, future prospects are added at 25%, and 1/4th deduction is applied towards personal expenses.



12. Calculation:

- Notional Income: Rs. 18,000/-
- 25% Future Prospects: Rs. 18,000 + 4,500 = Rs. 22,500/-
- After 1/4 Deduction : Rs. 22,500 - 5625 = Rs. 16,875/-

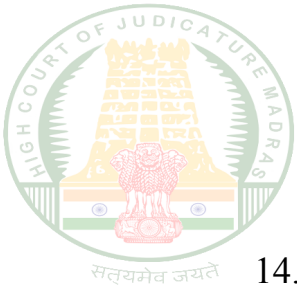
Loss of Dependency: Rs. 16,875 × 12 × 15 = Rs. 30,37,500/-

13. The following table sets out the amounts awarded by the Tribunal and

the revised amounts awarded by this Court:

Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Loss of Dependency	Rs. 27,00,000	Rs.30,37,500
2.	Funeral expenses	Rs. 16,500	Rs. 16,500
3.	Loss of Estate	Rs. 16,500	Rs. 16,500
4.	Loss of Consortium	Rs. 2,20,000	Rs. 2,20,000
5.	Transportation Charges	Rs.10,000	Rs.10,000
	Total	Rs. 29,63,000	Rs.33,00,500
	Less contributory negligence of the award amount.	Rs,2,96,300 (10%)	Rs.4,95,075 (15%)
	Total	Rs.26,66,700	Rs.28,05,425

Thus, the compensation awarded by the Tribunal is revised from Rs.26,66,700/- to Rs.28,05,425/-, which shall carry interest at the rate of 7.5% per annum.



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14. In the result:

i. The Cross Objection filed by the claimants is partly allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

ii. The compensation awarded by the Tribunal is enhanced from Rs.26,66,700/- to Rs.28,05,425/-.

iii. The appellant is directed to pay the revised compensation amount of Rs.28,05,425/ (after deducting any amount already deposited), along 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.2597 of 2021 on the file of the Motor Accident Claims Tribunal / Chief Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt or uploading of a copy of this order.

iv. On such deposit being made by the appellant, the claimants are at liberty to withdraw the same as per the apportionment made by the Tribunal, after following due process of law.



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if any, in filing this appeal.

12-06-2025

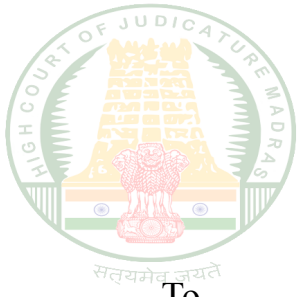
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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CMA No. 1351 of 2025



To
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1.The Motor Accident Claims Tribunal,
Chief Judge, Court of Small Causes,
Chennai.

2. The Reliance Gen.Ins.Co.Ltd
Reliance Tower, No.6, Haddows Road,
Nungambakkm, Chennai-600 006.

3.The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI J.
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