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CMA No. 519 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 18-06-2025**

CORAM

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

**CMA No. 519 of 2023**

**and**

**C.M.P.No.4543 of 2023**

1. United India Insurance Co.Ltd.,  
Kallakurichi.

Appellant(s)

Vs

1. Nathiya  
Pappankottai, Anugumalai Village,  
Thiruvannamalai Taluk and Dt.

2.Anbu  
S/o. Chinnadurai, Pappankottai,  
Anugumalai Village, Thiruvannamalai  
Taluk and Dt.

3.E. Ponrani  
W/o. Edwardnadar, No.2, Valluvar St,  
JB Nagar, Chennai 109.  
(Set Ex-parte before claims Tribunal)

Respondent(s)



**PRAYER**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the decree and judgement dated 06.11.2017 made in MCOP No.217 of 2015 on the file of Motor Accident Claims Tribunal, III Additional District Judge, Kallakurich.

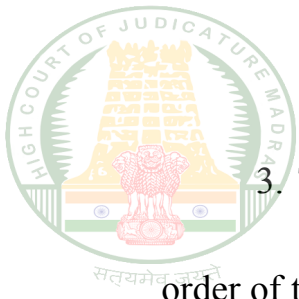
For Appellant(s): M/s.M.J.Vijayaraaghavan

For Respondent(s): R-1 and R2 - No Appearance  
R3- Exparte

**JUDGMENT**

The appellant has filed this appeal against the award passed in MCOP No.217 of 2015 on the file of Motor Accident Claims Tribunal, III Additional District Judge, Kallakurich, dated 06.11.2017.

2. On considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.9,25,000/- as compensation, directing the second respondent to pay the said amount to the appellants along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit (excluding the period of dismissal for default if any).



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3. The learned counsel for the appellants submitted that the decree and order of the lower Court are against the law, facts, evidence, and probabilities of the case. The learned Judge of the Motor Accidents claims tribunal awarded a total sum of Rs.9,25,000/- in favour of the parents / 1<sup>st</sup> and 2<sup>nd</sup> respondents herein for the death of their 1 ½ year old baby under the following heads, based on the judgment of the Hon'ble Single Judge of the Delhi High Court reported in 2016 ACJ Page 1873:(a) Rs.8,00,000/- towards loss of dependency for the death of the only son, (b) Rs.25,000/- towards funeral expenses, and © Rs.1,00,000/- towards loss of love and affection (Rs.50,000/- each). This award is contrary to the facts as well as the law prevailing at the time of delivery of the judgement of the Hon'ble Supreme Court reported in 2014(1)SCC page 244, wherein it was elaborately discussed that, in the case of the death of a 10 year old child, a multiplier of 15 was adopted after fixing the annual income of the deceased at Rs.30,000/- and a total compensation of Rs.5,00,000/- (Rs.4,50,000/- towards loss of dependency and Rs.50,000/- towards conventional heads) together with interest was awarded. Therefore, the reliance placed by the learned Judge on the decision of the Hon'ble Single Judge of the Delhi High Court reported in



2016 ACJ page 1873 is not applicable to the present case, and the quantum of compensation awarded by the Tribunal is liable to be reduced.

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4. Notice was issued, but none appeared on the side of the respondents.

5. On perusal of the records, it is revealed that on the date of the alleged accident, the child, aged 1 ½ years belonging to the petitioners, was sitting in front of the house. Due to the negligent driving of the van driver, the van hit the child, resulting in the child's death. The manner of the accident is not disputed, only the quantum of compensation is under challenge.

6. This Court, by considering the ratio laid down in “*Meena Devi Vs. Nuna Chand Mahto @ Nemchand Mahto & other, reported in 2022 (2) TN MAC 605 (SC)*”, fixed the loss of dependency at Rs. 4,50,000/-, and by adding other conventional heads, the total compensation was determined at Rs.5,00,000/-. By applying the principle of “just compensation” and taking note of the aforesaid ratio, this Court is inclined to reduce the award of Rs. 8,00,000/- passed by the Tribunal to Rs.5,00,000/-. Accordingly, the



compensation is reduced to Rs.5,00,000/-. The award under the other heads for

“love and affection and funeral expenses” passed by the Tribunal requires no

interference.

|                    |                       |
|--------------------|-----------------------|
| Just compensation  | : Rs.5,00,000/-       |
| Love and affection | : Rs.1,00,000/-       |
| Funeral Expenses   | : Rs.25,000/-         |
| <b>Total</b>       | <b>:Rs.6,25,000/-</b> |

7. Thus, the compensation awarded by the Tribunal is reduced from Rs.9,25,000/- to Rs.6,25,000/-, which shall carry interest at the rate of 7.5% per annum.

8. In view of the above, the Civil Miscellaneous Appeal is partly allowed.

There shall be no order as to costs.

9. Since Rs.4,00,000/- has already been deposited by the appellant / United India Insurance company Ltd., Kallakurichi, the balance amount is directed to be deposited within a period of six (6) weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents 1 and 2 are



at liberty to withdraw the same, as per the apportionment fixed by the Tribunal,  
after following due process of law.

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**18-06-2025**

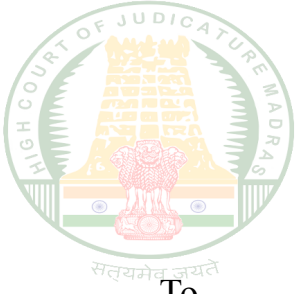
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To  
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1.Nathiya

Pappankottai, Anugumalai Village,  
Thiruvannamalai Taluk and Dt.

2.Anbu

S/o. Chinnadurai, Pappankottai,  
Anugumalai Village, Thiruvannamalai  
Taluk and Dt.

3.E. Ponrani

W/o. Edwardnadar, No.2, Valluvar St,  
JB Nagar, Chennai 109.

4.The Motor Accident Claims Tribunal,  
III Additional District Judge,  
Kallakurich.

5.The Section Officer, V.R. Section,  
High Court of Madras.



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**T.V.THAMILSELVI J.**  
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