



C.M.A.No.4214 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2025

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.4214 of 2019
& C.M.P.No.25369 of 2025 in Cros.Obj.SR.No.56631 of 2024
& C.M.P.No.23836 of 2019

The New India Assurance Company Limited,
Divisional Office, Vellore.

... Appellant

/versus/

1. M.Kamaraj, (died)
2. G.Ramu,
3. Vijayalakshmi,
4. Minor Lokesh,
5. Minor Siusindran,
(Minors Rep. by their mother & natural guardian Mrs.Vijayalakshmi)
6. Muthaiyan.
7. Saraswathi.

... Respondents

R3 to R7 brought on record as LR's of the deceased R1 viz., M.Kamaraj vide Court order dated 27.09.2019 made in CMP.No.13037 of 2019 in C.M.A.SR.No.94074 of 2017 (KKSJ and AQJ).

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 16th day of August 2016, made in M.C.O.P.No.228 of 2009, on the file of Motor Accident Claims Tribunal (Sub Court), Cheyyar.



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For Appellant : Mr.J.Chandran
For Respondents : Mr.T.V.G.Kartheeban,
for Mr.PRS.Thamizhmaran,
for R3 to R5 & R7
: Died, for R1
: No appearance, for R2

C.M.P.No.25369 of 2025 in Cros.Obj.SR.No.56631 of 2024

1. K. Vijayalakshmi,
2. Minor Lokesh,
3. Minor Suseendran,
(Minors represented by their mother & natural guardian Vijayalakshmi)

4.Saraswathi. ... Petitioners/Respondents 3
to 5 & 7

/versus/

1. The New India Assurance Company Limited,
Divisional Office, Vellore.

2. G.Ramu. ... Respondents

Prayer: Civil Miscellaneous Petition filed under Order IV Rule 9(4) of Rules,
to condone the delay of 446 days delay in representing the above Cross Appeal
in S.R.No.56631 of 2024.

For Appellant : Mr.T.V.G.Kartheeban,
For Respondents : Mr.J.Chandran, for R1



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J U D G M E N T

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On 04.10.2006, a primary school teacher, while returning to his house after attended election-instruction duty, hit the stationed lorry and sustained severe injuries which has crippled him and disabled him physically from attending his job from the date of accident. He underwent treatment in various hospitals and, in fact, died on 13.11.2015. A claim petition was filed before the Motor Accident Claims Tribunal at Cheyyar by the insured and same was considered by the Court awarded Rs.19,99,694/- with 7.5 % interest.

2. The Insurance Company has preferred the appeal stating that the accident took place due to the negligence of the injured claimant. It is contended that he in a drunken state driven the two-wheeler and hit the stationed lorry which was parked on the road margin. According to the insurer, this fact been spoken by the witnesses and the FIR lodged by the wife of the claimant six months after the accident also could clearly proves that the claimant is not entitled for any compensation for the accident which was caused by himself.



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3. Further, the Learned Counsel appearing for the appellant/Insurance Company submitted that the Tribunal has applied the multiplier method for awarding compensation, which is contrary to the settled principles of law. The percentage of disability ascertained by the Doctor is 70%. In such circumstances, the Tribunal ought to have been assessed the nature of injury, its impact on the earning capacity and should have fixed the compensation. In this case, the claimant has not placed any evidence to show that, due to the accident, he had incurred the loss of income. While so, the application of multiplier is *per se* improper. By that time, the appeal was filed and even before the award could be passed, the claimant passed away. Hence, the appellant has brought on record the legal heirs of the claimant as respondents.

4. The dependants of the deceased claimant are his wife, two children and mother. After notice, the legal heirs of the deceased claimant had taken out an application for enhancement of compensation by way of Cross Objection, with substantial delay.

5. The contention of the Learned Counsel appearing on behalf of the legal heirs of the claimant is that the accident has crippled the claimant obsoletely and he was not able to attend the office after the accident. He was



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bedridden and under continuous treatment till his death. Therefore, the death is to be attributed to the accident though there is a long gap between the date of accident (04.10.2006) and the date of death (13.11.2015). Therefore, the Learned Counsel submits that the computation of loss of income which was reduced to 70% has to be reconsidered. It is argued that the multiplier method should be applied without any reduction and also 50% towards further prospects should be added towards loss of income. Further, the Learned Counsel submits that the Tribunal has not awarded any compensation for loss of consortium, love and affection, which should be awarded and the compensation should be enhanced.

6. We have given anxious consideration to the rival submissions. The evidence placed before the Court clearly proves the fact that on 04.10.2006, the claimant, while returning from duty had met with an accident and from that day onwards, he was under medical care. In his evidence, on 13.08.2013, he had specifically stated that after the accident, he was unable to attend the office and he is in loss of pay. The Learned Counsel has also produced documents indicating that on the death of the claimant, his prolonged absence has been regularised after adjusting the leave available. However, there is no evidence to show that he was drawing monthly salary after the date of the accident. No



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suggestion put forth during the cross-examination to disprove the assertion made by the claimant regarding his loss of pay. Therefore, we hold that the application of multiplier in this case is justifiable. The only point further to be considered is whether the reduction of loss of income to 70% is proper, when there is material to show that the claimant has lost 100% of his income due to the accident.

7. In this regard, this Court has taken into consideration the submissions made by the Learned Counsel for the appellant/Insurance Company that the claimant had contributed for the accident. Firstly, he had driving an insured vehicle. Secondly, he was in drunken state as found in the medical record. Finally, he has hit a stationed lorry parked on the road margin. Thus, negligence on the part of the claimant is established and proved through documents.

8. In said circumstances, the reduction of 30% in the income has to be attributed to contribution for the accident. Regarding future prospects, it is pertinent to note that the accident has caused only injury and disability but not death. The accident though had deprived the salary, the other service benefits conferred to a Government Servant not been taken away and there is no



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evidence to show that the service benefits been deprived to the claimant.

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9. On careful consideration of the submissions and the evidence placed, we find that the claimant's contributory negligence and his drunken state has played a predominant role in the incident. In the light of above, we are not inclined to entertain the cross-objection seeking enhancement of compensation and confirmed the award passed by the Tribunal.

10. The legal heirs of the claimant, who are arrayed as respondents 3, 4, 5 & 7 are entitled to get the award amount with interest at the rate of 7.5% p.a., from the date of filing the claim petition till the date of realisation. The total award amount shall be equally distributed equally between the respondents 3, 4, 5 & 7.

11. The Learned Counsel for the Insurance Company has submitted that the entire award has already been deposited while preferring the appeal. If that is so, the balance award amount, along with interest at the rate of 7.5% p.a., from the date of filing the claim petition till the date of realization, to be deposited within a period of two months from the date of receipt of copy of this order. On such deposit, the respondents 3, 4, 5 & 7 shall entitled to get the



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award amount equally along with interest at the rate of 7.5% p.a.

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12. Accordingly, this *C.M.A.No.4214 of 2019 is partly allowed* and C.M.P.No.25369 of 2025 is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[Dr.G.J., J.] & [M.S.K., J.]
15.10.2025

Index :Yes/No.
Internet :Yes/No.
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To,
1. The Motor Accident Claims Tribunal (Sub Court), Cheyyar.



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Dr.G.JAYACHANDRAN., J.
and
MUMMINENI SUDHEER KUMAR., J.

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