

C.M.A.(MD).No.385 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.(MD).No.385 of 2022

and

C.M.P.(MD).No.3386 of 2022

and

C.M.P.(MD).No.5890 of 2024

National Insurance Company Limited,
J.K.Plaza, No.3622-27,
Santhanathapuram 5th Street, Pudukkottai.
Policy No.641000311810003347. ... Appellant / 2nd Respondent

vs.

1.Nanthini
2.Minor.Shalini
3.Minor Malini
(R2 and R3 are minors represented by
their Mother / Guardian / R1)

4.Pragathambal (Died) ... Respondents/Petitioners
(Memo dated 02.01.2025
filed on 03.01.2025 USR No.626,
is recorded, as R4 died & R1 to R3
who are already on record are
recorded as LR's of the deceased R4,
vide Court Order dated 06.01.2025

5.J.Jawahar

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the
Motor Vehicles Act, 1988, against the Award dated 05.02.2021 made in
M.C.O.P.No.569 of 2019 by the Motor Accident Claims Tribunal / Sessions



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Judge, Mahila Court, Pudukkottai.

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For Appellant : Mr.A.S.Mathialagan

For Respondents : Ms.A.Banumathy[For R1 to R3]

R4 – Died

R5 – No Appearance

JUDGMENT

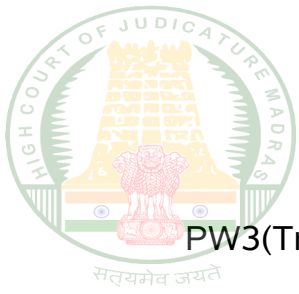
This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the Award dated 05.02.2021, passed in M.C.O.P.No.569 of 2019 by the Motor Accident Claims Tribunal / Mahila Court, Pudukkottai on quantum for a change.

2. Parties are indicated as per their litigative status and ranking before the Tribunal.

3. Heard the arguments of the learned counsel for the appellant and the learned counsel for the respondents No.1 to 3.

4. Despite the receipt of notice, 5th respondent neither appeared nor entered appearance through his counsel.

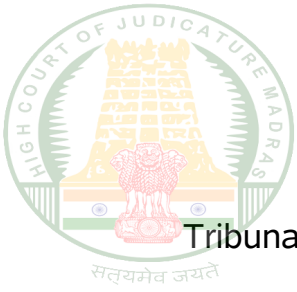
5. It has come on record through the evidence of PW1 that her husband was working as a loadman at the TASMAC godown and earning a sum of Rs.25,000/- p.m. The employer of the deceased is examined as



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PW3(Tr.Ravi). He would depose that the deceased was working as a loadman at the TASMAL godown and he was being paid Rs.800/- to 1000/- per day (as per pay certificate). As per Post-Mortem Certificate Ex.P2, age of the deceased has been taken as 37 years at the relevant point of time. Relying upon the aforesaid details, the Tribunal has fixed his income at Rs.16,800/- (Rs.800/- X 21 working days) which cannot be found fault with.

6. As held in ***National Insurance Co. Ltd., v. Pranay Sethi and others*** reported in ***2017 (2) TN MAC 609 (SC)***, for future prospects 40% was added while computing the income. As per the law laid down by the Apex Court in ***Smt. Sarla Verma & Ors., v. Delhi Transport Corporation & Another*** reported in ***2009 (2) TN MAC 1 (SC)***, multiplier 15 was adopted and as regards deduction for personal and living expenses, as the claimants are four in number, 1/4th is taken and for loss of dependency, arrived at Rs.31,75,200/-(Rs.16,800/-+40% -1/4 X 12 X 15). In consideration of age, occupation of the deceased and relying upon the testimony of PW3, the Tribunal has computed the loss of dependency as mentioned supra and this Court is of the opinion that the said computation appears to be reasonable and acceptable and it needs no interference. As regards other heads also amounts awarded by the



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Tribunal appears to be reasonable and hence needs no interference.

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7. When the matter was posted for arguments, on 02.01.2025, the learned counsel for the respondents 1 to 3 / claimants would state that the 4th respondent namely, mother of the deceased Neelakandan died and the legal heirs of 4th respondent are already on record / claimants and hence, no legal representatives need be further added.

8. Arguments advanced on either side were heard and reserved for orders. For want of death certificate of deceased, 4th respondent, matter was posted and the death certificate of the 4th respondent herein was filed by way of memo dated 05.06.2025 and the memo is taken on record.

9. In the result,

(i) This Civil Miscellaneous Appeal stands dismissed. No costs.

(ii) The compensation awarded by the Tribunal is confirmed.

(iii) The Appellant / Insurance Company is directed to deposit the compensation amount awarded by the Tribunal i.e., **Rs.32,90,200/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.569 of 2019 on the file of Motor Accident Claims Tribunal / Sessions Judge, Mahila Court, Pudukkottai, within a period of

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eight weeks from the date of receipt of a copy of this Judgment.

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(iv) On such deposit being made, since the 4th claimant died, the 1st claimant/wife of the deceased is permitted to withdraw Rs.12,90,200/- and the minor claimants 2 and 3 are permitted to withdraw Rs.10,00,000/- each along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The share of the minors shall be deposited in any one of the nationalized bank till they attain majority and the 1st respondent, mother of the minor claimants, Nanthini, shall be permitted to withdraw quarterly interest from the said amount. The claimants are directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimants. Consequently, connected miscellaneous petitions are closed.

10.06.2025

Index : Yes/No

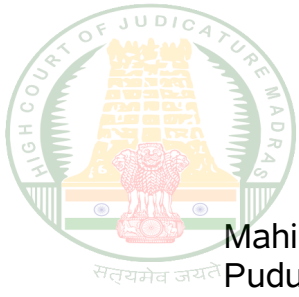
Speaking / Non-speaking order

ssn

To:

1. The Motor Accident Claims Tribunal,
Sessions Judge,

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Mahila Court,
Pudukkottai.

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2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

R.KALAIMATHI, J.,

ssn

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