



C.M.A.(MD)No.276 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 09.10.2025

Pronounced on : 23.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.276 of 2021

and

CMP(MD)No.2282 of 2021

IFFCO TOKIO General Insurance
Company Limited.,
Represented by Branch Manager,
Kalluveettil Centre,
No.82, 3rd Floor, Court Road,
Nagercoil, Nagercoil Village,
Agasteeswaram Taluk,
Kanniyakumari District.

... Appellant / Respondent No.2

Vs.

1.M.B.Kavya (Minor)
(Rep. by next friend guardian
Maternal grand father G.Vikraman) ... Respondent No.1 / Petitioner

2.S.Murugan (deceased)

3.P.Kuppusamy

4.National Insurance Company Limited.,
Rep. by Branch Manager,
Krishnagiri Branch,
Third Floor, Anuradha complex,



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Banglore Road, Krisnagiri District,
Dharmapuri, Tamilnadu.

... Respondent Nos.2 to 4 /
Respondent Nos.1, 3 &4

(Name of the 1st respondent is amended vide Court order dated 18.12.2023 made in CMP(MD)No.2388 of 2022 in CMA(MD)No. 276 of 2021, also the consequential order dated 22.11.2024 made in CMP(MD)No.2285 of 2024)

(R-2 deceased vide Court order dated 25.09.2025 made in CMA(MD)No.276/2021)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 24.01.2020, passed in MCOP.No.182 of 2017 on the file of the Motor Accident Claims Tribunal Judge cum Chief Judicial Magistrate of Nagercoil in so far as liability to pay compensation and quantum of compensation is concerned.

For Appellant	: Mr.V.Sakthivel
For R-1	: Mr.T.Selvakumaran
R-2	: Died
For R-3	: No appearance
For R-4	: Mr.A.S.Mathialagan

JUDGMENT

(Judgment of the Court was made by **L.VICTORIA GOWRI, J.**)

This Civil Miscellaneous Appeal is directed against the judgment and decree passed in MCOP.No.182 of 2017 on the file of the Motor Accident Claims Tribunal Judge cum Chief Judicial Magistrate of Nagercoil, dated 24.01.2020.



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2. For the sake of convenience, the parties herein are referred as per their ranking before the learned Tribunal.

3. *The facts of the Case required for the disposal of the appeal in nutshell are as follows:*

The minor petitioner is the daughter of the deceased mother namely Bindhumol. The minor petitioner is represented by her maternal grandfather namely Vikraman. The 1st respondent is the father of the petitioner who was the owner-cum-driver of the two wheeler, namely, Hero Honda Splendor bearing registration No.TN 74 H 9175. The 2nd respondent is the insurer of the offending vehicle. The 3rd respondent is the owner-cum-driver of the parked lorry. The 4th respondent is the insurer of the lorry. The deceased Bindhumol was a pillion rider. On 20.10.2016 at about 05.00 P.M., near Public Works Department Office, Villukuri in the national highways, the 1st respondent rode his bike in a rash and negligent manner and finally dashed against the back side of the lorry bearing registration No. TN 29 AS 9099 which was parked on the left side of the road. Due to which, the petitioner and her parents sustained injuries. The petitioner's mother died due to head injury. Pursuant to the accident, a case in Crime No.658/2015 was registered against the 1st respondent by the Eraniel Police Station. At the time of death, the petitioner's mother Bindhumol was working as Professor with a Doctorate degree. Seeking



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compensation for the death of the deceased Bindhumol, the minor petitioner filed a claim petition, claiming a sum of Rs. 1,50,00,000/- (Rupees One Crore and Fifty Lakhs only) with 12% interest per annum.

3. In order to prove the case of the claimant, before the learned Tribunal, P.W.1 and P.W.2 were examined and Exhibits P-1 to P-11 were marked, on the side of the respondents R.W.1 and R.W.2 were examined, and Exhibit R-1 was marked.

4. Upon considering the oral and documentary evidence, the learned Tribunal had come to the conclusion that the accident had occurred solely due to the rash and negligent driving of the rider of the two-wheeler. Based on the oral and documentary evidence let in before the learned Tribunal, an amount of Rs.1,07,26,000/- (Rupees One Crore Seven Lakhs and Twenty Six Thousand only) has been awarded towards compensation and the 2nd respondent / appellant herein Insurance company was directed to pay compensation along with 7.5% interest per annum from the date of petition till the date of realisation within a period of eight (8) weeks from the date of the said order to the credit of bank directly RTGS or NEFT mode, and the claim against the respondents 1, 3 and 4, was dismissed. Assailing the same, the appellant /



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Insurer of the two-wheeler is before this Court.

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5. The learned counsel appearing for the appellant vehemently contended that the deceased's failure to wear a helmet, as required by Section 129 of the Motor Vehicles Act, 1988, contributed to her fatal head injuries. The post-mortem certificate (Ex.P-3) confirms that death was due to head injuries. The learned counsel appearing for the appellant also noted that the lorry was parked partially on the road and partly on the mud portion and the same was confirmed in the admission given by the PW-2 in her cross examination. However, in preparing the sketch and observation mahazar, which was prepared on the next day morning, there is a delay of 11 hours and hence, the same cannot be taken into consideration by the learned Tribunal. Furthermore, the deceased, being the wife of the insured vehicle's owner, cannot be considered a third-party claimant. The learned counsel for the appellant further submitted that the compensation calculation, arguing that 30% income tax deduction is necessary and interest should be awarded at 6% per annum instead of 7.5%. On these grounds, the learned counsel prays for allowing the Civil Miscellaneous Appeal.



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6. Per contra, the learned counsel for the claimant would submit that the learned Tribunal, after analyzing the age, avocation and dependency of the minor child, had rightly come to the conclusion and had awarded compensation as stated above, which are found to be just and reasonable and hence, prays for dismissal.

7. We have considered the rival submissions and perused the materials available on record.

8. On the basis of the oral and documentary evidence and the rival submissions of both the Counsels, it is clear that the accident had happened only because of the rash and negligent driving of the 2nd respondent. Thus, the learned Tribunal has rightly assessed the oral and documentary evidence and arrived at a just and reasonable compensation. In view of the same, this Court is of the considered view that it is not necessary to interfere with the award passed by the learned Tribunal. The compensation of Rs.1,07,26,000/- (Rupees One Crore Seven Lakhs and Twenty Six Thousand only) with 7.5% interest p.a. is just and reasonable. Hence, the order passed by the the Motor Accident Claims Tribunal Judge cum Chief Judicial Magistrate of Nagercoil, in M.C.O.P.No.182 of 2017, dated 24.01.2020, is hereby confirmed. The details of



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the compensation awarded by the learned Tribunal is as follows:

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S. No.	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Reduced or confirmed or increased
1.	Loss of Dependency	Rs.1,06,56,000/-	Rs.1,06,56,000/-	confirmed
2.	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	confirmed
3.	Loss of Consortium	Rs. 40,000/-	Rs. 40,000/-	confirmed
4.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
	Total	Rs.1,07,26,000/-	Rs.1,07,26,000/-	confirmed

9. In view of the above, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The appellant is directed to deposit the compensation amount as awarded by the learned Tribunal with accrued interest and costs to the credit of M.C.O.P.No.182 of 2017 before the Motor Accident Claims Tribunal Judge cum Chief Judicial Magistrate of Nagercoil, within a period of eight weeks (8) from the date of receipt of copy of this judgment, less the amount, if any



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already deposited. On such deposit, since the claimant is minor, the entire amount shall be deposited by the learned Tribunal, in any one of the Nationalised Banks till she attains majority. The guardian of the minor claimant is permitted to withdraw the interest of minors once in three months directly from the Bank. No costs.

[P.V.,J.] [L.V.G.,J.]

23.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

The Motor Accident Claims Tribunal
Judge cum Chief Judicial Magistrate of Nagercoil.

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.VELMURUGAN, J.,

AND

L.VICTORIA GOWRI, J.,

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