



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 28.02.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MS. JUSTICE R.POORNIMA**

C.M.A(MD)No.89 of 2019

1.G.Aravinth

2.M.Ananthi

... Appellants/Petitioners

.Vs.

1.Kalyanasundaram

2.The Manger,
Royal Sundaram Insurance Company Limited,
IInd Floor, Lingu Chetty Street,
Parrys Corner,
Goerge Town,
Chennai.

3.A.Vishwanath Gowtham Reddy

4.The Manager,
IFFCO Tokyo General Insurance Company Limited,
New No.28, Second Floor,
North Usman Road,
T.Nagar,
Chennai – 600 017.

... Respondents/Respondents



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree made in M.C.O.P.No.1211 of 2026, dated 12.09.2018, on the file of the Motor Accidents Claims Tribunal/Special Sub-Court, Thanjavur.

For Appellant	: Mr.N.Tamilmani for M/s.N.Ilango
For Respondents 1 and 3	:Given up
For Respondent-2	:Mr.S.Srinivasa Raghavan
For Respondent-4	:Mr.V.Sakthivel

JUDGMENT

DR.G.JAYACHANDRAN., J
AND
R.POORNIMA.,J

The Civil Miscellaneous Appeal is directed against the judgment and decree made in M.C.O.P.No.1211 of 2026, dated 12.09.2018, on the file of the Motor Accidents Claims Tribunal/Special Sub-Court, Thanjavur.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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3. The above appeal is filed by the claimants questioning the compensation awarded without taking into account the loss of love and affection of the claimants, who lost their only son and also on fixation of notional income of Rs. 10,000/- for a medical college student, aged 23 years, who had a bright prospect. Further, reduction of 50% towards contributory negligence was also questioned.

4. The learned counsel for the second respondent/Insurance Company would submit that evidence of the witness clearly show that the motor accident victim had driven his two wheeler rash and negligently, overtook the passer bike and dashed against the car without proper diligence. Though there are two conflicting testimony on either side regarding negligence, this Court finds that the reasoning of the Tribunal holding that there was contributory negligence on either side equally and fix 50% contributory negligence on the part of the victim. As far as notional income is concerned, taken into account the fact that the victim was pursuing MBBS and therefore the notional income has to be fixed at Rs. 12,000/-p.m with proportionate future prospectus. By taking the notional income of the deceased at Rs.12,000/- and by adding future prospects at 40% for a deceased bachelor, the monthly income comes to Rs.16,800/-(Rs.12,000/-+Rs.



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4,800/-). By deducting personal expenses of the deceased at 50%, the monthly income comes to Rs.8400/- and the annual income comes to Rs.1,00,800/- and by adopting multiplier of '18' for the age group of the deceased, the total loss of dependency is arrived at Rs.18,14,400/-(Rs.1,00,800 x18).The award of the Tribunal is modified to that effect with compensation for loss of love and affection at Rs.40,000/- each for the two claimants. The award under other heads stand confirmed.The modified award amount is as follows:

S.No	Name of the heads	Awarded by the Tribunal	Awarded by this Court	Remarks
1	For loss of dependency	Rs. 15,12,000/-	Rs. 18,14,400/-	enhanced
2	For medical expenses	Rs.45,699/-	Rs.45,699/-	same
3	For loss of love and affection	Nil	Rs.80,000- (Rs.40,000/- each for two claimants)	Not awarded
	For loss of consortium	Nil	Nil	Same
5	For loss of estate	Rs.15,000/- each	Rs.15,000/-	same
6	For funeral expenses	Rs.15,000/-	Rs.15,000/-	Same



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7	Total	Rs.Rs. 15,88,699/- 50% - Rs.7,94,350/-	Rs. 18,80,099/- rounded off to Rs. 18,80,100/- 50% Rs.9,40,050/-	enhanced
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The second appellant/mother is entitled to a sum of Rs.9,40,050/- as compensation with interest at the rate of 7.5% p.a from the date of claim petition till the date of deposit. The claim petition in respect of first appellant is already dismissed by the trial Court and the same stand confirmed

5.In the result, the Civil Miscellaneous Appeal is partly allowed by enhancing the compensation from Rs.7,94,350/- to Rs.9,40,050/- with interest at the rate of 7.5% pa from the date of claim petition till the date of deposit. The second respondent Insurance Company is directed to deposit the award amount, less the award amount, if any already deposited, to the credit of claim petition before the Tribunal within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the second appellant/mother is permitted to withdraw the award amount with accrued interest and costs, less the award amount if any already withdrawn, by filing necessary application before



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the Tribunal. The appeal in respect of the first appellant is dismissed. No costs.

[G.J.,J.] [R.P.,J.]

28.02.2025

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

The Special Sub-Judge,
(The Motor Accidents Claims Tribunal),
Thanjavur.

Copy to

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.
and
R.POORNIMA,J.

vsn

JUDGMENT MADE IN
C.M.A(MD)No.89 of 2019

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