



C.M.A. (MD) No. 917 of 2022

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DATED : 30.07.2025

CORAM:

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD)No.917 of 2022

and

C.M.P.(MD)No.8999 of 2022

Branch Manager,
Cholamandalam MS General Insurance
Company Limited,
No.3 & 4, Dindigal Highway Road,
Kalavasal, Madurai District.

... Appellant/
3rd Respondent

Vs.

1.V.Gopinathan Pillai (died)

2.A.Shylaja

... Respondents 1to2/
Petitioners 1to2

3.R.Gopinath

... 3rd Respondent/
1st Respondent

4.T.Jeyaseelan

... 4th Respondent/
2nd Respondent



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5. Branch Manager,
Bajaj Allianz General Insurance Co. Ltd.,
184/25, KPS Shopping Arcade,
Bye-pass Road, Madurai.

... 5th Respondent/
4th Respondent

*(Deleted as per order in I.A.No.686 of 2018
dated 25.07.2019)*

6. Branch Manager,
The New India Assurance Co. Ltd.,
Pillars Gate,
Opposite to Anna Stadium,
Balamore Road,
Nagercoil, Agasteeswaram Taluk,
Kanyakumari District .

... 6th Respondent/
5th Respondent

*(Impleaded as per order in I.A.No.696 of 2019
dated 25.07.2019)*

Prayer : This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree passed in M.C.O.P.No.36 of 2018 on the file of the Motor Accident Claims Tribunal Judge (Special Judge for Forest Offence Case), Nagercoil, dated 30.12.2021.

For Appellant : Mrs.K.R.Shivashankari

For Respondents : No appearance for R1, R3 & R4

Mr.B.Brijesh Kishore for R2

Mr.J.S.Murali for R5

Mr.C.Deepak for R6



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passed the impugned award dated 30.12.2021 holding that the tempo driver was responsible for the accident, directed the appellant / insurer to pay compensation of Rs.21,25,800/- (Rupees Twenty One Lakhs Twenty Five Thousand and Eight Hundred only) with interest and costs. Against which, the appellant / insurer has preferred this appeal challenging the quantum of compensation awarded at, by the Tribunal.

5. It is pertinent to note that the appellant / insurer has not challenged the negligence aspects and consequent liability fixed on them but only challenged the quantum of compensation awarded at, by the Tribunal.

6. When the matter is taken up for hearing today, the learned counsel appearing for the second respondent / second claimant would submit that during the pendency of the appeal, the first respondent / first claimant died leaving behind his wife, second respondent herein as the legal heir and since she was already on record, no steps is necessary. The said submission is recorded.



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7. The learned counsel appearing for the appellant / insurer would submit that though the respondents 1 and 2 / claimants have alleged that the deceased was working as a mason, they have not produced any material to prove the avocation and income of the deceased and the Tribunal, without any basis, fixed the notional monthly income of the deceased at Rs.15,000/-, which is very high. She would further submit that the Tribunal also erred in granting amounts for loss of love and affection and loss of consortium separately and also the Tribunal has wrongly granted Rs.10,000/- under the transportation charges. Hence, the quantum of compensation fixed by the Tribunal is liable to be interfered with.

8. The learned counsel appearing for the second respondent / second claimant would submit that the deceased was a mason by profession and the Tribunal, considering the cost of living, prices of essentials and inflation, has rightly fixed the notional monthly income of the deceased at Rs.15,000/-. Hence, he seeks to confirm the same.

9. This Court considered the rival submissions made on either side. I perused the entire materials available on record.



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10. The only point that arises for consideration in this appeal is whether the compensation of Rs.21,25,800/- awarded by the Tribunal is just and reasonable.

11. According to the second respondent / second claimant, the deceased was aged 29 years at the time of accident and was doing mason work and was getting Rs.22,000/- per month. Admittedly, the respondents 1 and 2 / claimants have not produced any document to prove the income of the deceased. Considering the above, fixing of monthly income at Rs.15,000/-, in the absence of clinching evidence is definitely on higher side. Considering the cost of inflation index, this Court fixes the monthly income of the deceased at Rs.13,500/-.

12. The Tribunal, as per the decision of the Hon'ble Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others* reported in **2017 (2) TN MAC 609 (SC)**, has rightly added 40% of the income towards future prospects and after such addition, the monthly income would come to Rs.18,900/- {Rs.13,500/- + Rs.5,400/- (40% of the income)}. The Tribunal, taking note of the fact that the deceased was a



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bachelor, has rightly deducted 50% of the income towards personal and living expenses of the deceased and after such deduction, it comes to Rs.9,450/- {Rs.18,900/- - Rs.9,450/-}. The Tribunal, by relying on Ex.P.14-SSLC certificate, has rightly fixed the age of the deceased at 29 years. The Tribunal, as per the decision of the Hon'ble Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another*** reported in ***AIR 2009 SC 3104***, has rightly applied multiplier 17. Hence, the loss of dependency would be Rs.19,27,800/- (Rupees Nineteen Lakhs Twenty Seven Thousand and Eight Hundred only) {Rs.9,450/- x 12 x 17}.

13. The Tribunal, by relying on the judgment in ***Pranay Sethi's*** case, has rightly awarded Rs.40,000/- each to the respondents 1 and 2 / claimants towards loss of filial consortium, but also granted Rs.1,00,000/- towards loss of love and affection.

14. The Tribunal, by relying on the judgment in Pranay Sethi's case, has rightly awarded Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate under the conventional heads. The amounts under the transportation charges is set aside. Accordingly, the compensation awarded by the Tribunal is modified as follows:-



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S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	21,42,000	19,27,800	Reduced
2.	Loss of love and affection to mother and father	1,00,000	80,000 (2 x 40,000)	Reduced
3.	Loss of consortium	80,000	Nil	Nil
4.	Loss of estate	15,000	15,000	Confirmed
5.	Funeral expenses	15,000	15,000	Confirmed
6.	Transportation	10,000	Nil	Nil
	Total	23,62,000	20,37,800	Reduced by Rs.3,24,200/-

15. In respect of 10% deduction made with regard to non-wearing of helmet, this Court is of the view that the same has to be confirmed and after such deduction, the total amount of compensation would be Rs.18,34,020/- {Rs.20,37,800/- - Rs.2,03,780/-}

16. In the result, this Civil Miscellaneous Appeal stands partly allowed and the compensation awarded at Rs.21,25,800/- (Rupees Twenty One Lakhs Twenty Five Thousand and Eight Hundred only) is hereby



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reduced to **Rs.18,34,020/- (Rupees Eighteen Lakhs Thirty Four**

Thousand and Twenty only). The appellant / insurer is directed the

deposit the modified award amount with interest at 7.5% per annum from

the date of petition till the date of payment, excluding the default period, if

any, to the credit of M.C.O.P.No.36 of 2018 on the file of the Motor

Accident Claims Tribunal / Special Court for Forest Offence cases,

Nagercoil, less the amount already deposited, if any, within a period of

four weeks from the date of receipt of a copy of this judgment. On such

deposit being made, the second respondent / second claimant is permitted

to withdraw the entire amount together with interest and costs, less any

amount already withdrawn, by filing appropriate application before the

Tribunal. If the amount was already deposited, the balance amount shall be

withdrawn by the appellant / insurer. Consequently, connected

Miscellaneous Petition is closed. No costs.

30.07.2025

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

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K.K.RAMAKRISHNAN,J.

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To:

1. The Special Judge for Forest Offence cases,
Motor Accident Claims Tribunal,
Nagercoil.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

Judgment made in
C.M.A.(MD)No.917 of 2022
and
C.M.P.(MD)No.8999 of 2022

Dated : 30.07.2025