BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20/11/2025

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THE HONOURABLE MR JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MRS JUSTICE L.VICTORIA GOWRI

CMA(MD)No.943 of 2025
and
CMP(MD)Nos.14290 and 17814 of 2025

The Manager,
Cholamandalam General Insurance Company,
Ground Floor, Ramesh Nagar,
New Housing Unit Bus Stop,
Pudukottai Salai,
Thanjavur. : Appellant/2nd Respondent

Vs.

1.Thenmozhi
2.Minor Harshika : Respondents 1 and 2/ Petitioners 1 and 2
(Minor respondent represented by her mother 1st respondent Thenmozhi)

3.Venkatesan : 3rd Respondent/1st Respondent

Rajendran (Died)

4.Kodiarasi : 4th Respondent/4th Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award passed in MCOP No.456 of 2020 on the file of the Motor Accident Claims Tribunal (Special District Judge), Thanjavur, dated 26/02/2025 and allow the Civil Miscellaneous Appeal.

For Appellant : Mrs.K.R.Shivashankari

For R1 and R2 : Mr.N.Marudhaiyan

For 3rd Respondent : No appearance

For 4th Respondent : Mr.T.Indrachithu

JUDGMENT

(Judgment of the Court was made by the Hon'ble **P.VELMURUGAN J.**)

This Civil Miscellaneous Appeal is filed against the award, dated 26/02/2025 passed in MCOP No.456 of 2020 by the Motor Accident Claims Tribunal (Special District Judge), Thanjavur.

2.**The facts of the case in nutshell**:-

On 03/08/2020, the deceased Ranjithkumar after visiting the construction spot at Kabisthalam, proceeding in his Hero Honda Splendor two wheeler No.TN-61-L-8370 to his native village. While proceeding near Karuppur bus stop, a Lorry No.TN-68-T-1204 came in the opposite direction in a rash and negligent manner and dashed against the two wheeler. In that process, he fell down and sustained head injury and died on the spot. The legal heirs of the deceased, filed a claim petition seeking compensation of Rs.1,00,00,000/- on the ground that the offending vehicle caused the accident. It is their further case that the deceased was 33 years old at the time of the accident and working as Civil Engineer, in L & W Constructions Pvt. Ltd., Bangalore and earning

Rs.40,000/- per month. It is alleged that the deceased died due to the negligence on the part of the driver of the offending vehicle.

3.The 1st respondent remained *ex-parte* before the Tribunal. The appellant Insurance Company filed their counter disputing the manner of the accident, occupation and income of the deceased and its liability to pay the compensation. It was also contended that the claim is excessive and exorbitant.

4.The 4th respondent, who is the mother of the deceased filed a counter affidavit stating that she is the mother of the deceased and after the death of his son, his wife along with her child residing in her parental home and after the death of his son, she is residing separately without any financial support and therefore, she prayed that she is also entitled to get share due to the death of his deceased son.

5.To substantiate the case, on the side of the claimants, 4 witnesses were examined as PW1 to PW4 and marked 15 documents. On the side of the 2nd respondent Insurance Company and the 4th respondent, no oral and documentary evidence was let in. Through witness, Exs.X1 to X5 were marked.

6.The Tribunal, on consideration of the oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.62,25,900/- together with the interest @ 7.5% per annum and directed the 2nd respondent Insurance Company to pay the said amount to the claimants as well as the 4th respondent.

7.Assailing the award, the appellant/Insurance Company has filed the present appeal.

8.Even though so many grounds were raised in the grounds of appeal, the learned counsel for the appellant Insurance Company would mainly argue that the Tribunal erred in awarding higher quantum of compensation and failed to award a fair compensation; and the Tribunal ought to have adopted correct multiplier and erred in arriving at the monthly income of the deceased and the Tribunal erred in granting future prospects of 50% while calculating the income of the deceased and the award of the Tribunal under the conventional heads are also on the higher side and hence, the award of the Tribunal has to be reduced and the appeal is to be allowed.

9.On other hand, the learned counsel for the respondents 1 and 2 and the 4th respondent would submit that after considering the materials available on record, the Tribunal has awarded a reasonable compensation, which does not call for any interference of this Court and prayed for dismissal of the appeal.

10.Heard the learned counsel appearing on either side and perused the materials available on record.

11.This appeal is filed only challenging the quantum. It is not in dispute that the deceased was working in a private company as Civil Engineer and he was getting Rs.33,200/- per month, at the time of accident, as seen from Exs.X4 and X5. By relying upon the said documents, the Tribunal has fixed the monthly income of the deceased at Rs.33,200/-. The deceased was aged about 33 years and the dependents are three.

12.It is seen that the deceased was working in a private concern which is not coming under the Government job, but the Tribunal added 50% towards future prospects, which is contrary to the principles laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd., Vs. Pranay Sethi and others reported in 2017 (16) SCC 680**. As per the said decision, the claimants are entitled to 40% of the income towards future prospects . Hence, 50% of the income added by the Tribunal towards future prospects, is set aside and only 40% of the income is to be added towards future prospects. The Tribunal rightly applied the multiplier '16' and deducted 1/3rd towards personal expenses and 5% towards income tax, since no IT return statement was produced on the side of the claimants. Accordingly, by adding 40% of the income towards future prospects and after deducting 1/3rd towards his personal and 5% towards income tax, the contribution of the deceased to the family comes to Rs.5,29,872/- (Rs.3,78,480/- + Rs.1,51,392/-). After deducting 1/3rd towards personal expenses, it would be calculated at **Rs.3,53,248/-** (Rs.5,29,872 – Rs.1,76,624/-). By applying multiplier '16', it would be comes to **Rs.56,51,968/-** (Rs.3,53,248/- x 16). The Tribunal awarded each Rs. 44,000/- for spousal consortium, parental consortium and filial consortium, which is contrary to the principles laid down by the Hon'ble Apex Court in the case of ***Magma General Insurance Company Ltd., Vs .Nanu Ram and others*** reported in ***2018(1) TN MAC 452(SC).*** As per the said decision, the claimants are entitled to **Rs.40,000/-** each towards consortium, which comes to Rs.1,20,000/-. This Court awards **Rs.15,000/-** towards loss of estate, instead of Rs.19,800/- and **Rs.15,000/-** towards funeral expenses, instead of Rs.16,500/-. The rate of interest fixed by the Tribunal as 7.5% per annum is confirmed, 13.According the compensation awarded by the Tribunal to the claimants are re-quantified as follows:-

Head	Amount awarded by the Tribunal	Re-qauntified Amount by this Court	Status
Loss of dependency	60,57,600/-	56,51,968/-	Reduced
Spouse Consortium	44,000/-	40,000/-	Reduced
Parental Consortium	44,000/-	40,000/-	Reduced
Filial Consortium	44,000/-	40,000/-	Reduced
Funeral expenses	16,500/-	15,000/-	Reduced
Loss of estate	19,800/-	15,000/-	Reduced
Total	**62,25,900/-**	**58,01,968/-**	

14.In such view of the matter, this Civil Miscellaneous Appeal is **partly allowed** and award amount is reduced to **Rs.58,01,968/-** from Rs.62,25,900/-. The appellant/Insurance Company is directed to deposit the modified amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order On such compliance, the major claimants namely the respondents 1 and 4 are permitted to withdraw their share as apportioned by the Tribunal with accrued interests and costs, less already withdrawn. The share of the minor 2nd respondent-claimant shall be deposited in any one of the

Nationalized Banks in a fixed deposit scheme, till she attain majority. The 1st claimant being the mother and natural guardian of the minor claimant is entitled to withdraw the interest accrued on the fixed deposit once in three months for the welfare of the minor. No costs. Consequently, connected Miscellaneous Petitions are closed.

(P.V.,J) **(L.V.G.,J)**
20/11/2025

Index:Yes/No
Internet:Yes/No

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To,

1.The Motor Accident Claims Tribunal,
Special District Judge, Thanjavur.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madura.

P.VELMURUGAN,J.
and
L.VICTORIA GOWRI,J.
er

CMA(MD)No.943 of 2025

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