BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2025

CORAM

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

CMA. (MD). No.554 of 2021
and Cross Objection (MD) No.55 of 2025

CMA(MD) No.554/2021

1.Sankaramani
2.S.Ari Krishnan
3.S.Kanthalakshmi

Old No.379 New D.No.507
Karunkali Amman Kovil Sannathi Street
Kulasekaranpattinam 628 206
Tiruchendur Taluk
Thoothukudi District ... Appellant

v.

1.M.Sudalaimani
2.B.Premavathi
3.The Branch Manager
IFFCO TOKIO General Insurance Company Ltd.,
No.24 JH Tower
2nd floor, EC colony
Vasantham Hotel Road,
Salem 636 004 ... Respondents

(1st and 2nd respondents remained exparte before the tribunal)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 06.09.2019 passed in MCOP No.522 of 2016 on the file of the Principal District Judge/Motor Accidents Claims Tribunal, Thoothukudi.

For Appellant : Ms.J.Saranya
For Respondents : Mr.V.Sakthivel for R3

Cross Objection (MD) No.55/2025

The Branch Manager
IFFCO TOKIO General Insurance Company Ltd.,
No.24 JH Tower
2nd floor, EC colony
Vasantham Hotel Road,
Salem 636 004 ... Petitioner/Cross objector

v.

1.Sankaramani
2.S.Ari Krishnan
3.S.Kanthalakshmi
Old No.379 New D.No.507
Karunkali Amman Kovil Sannathi Street
Kulasekaranpattinam 628 206
Tiruchendur Taluk
Thoothukudi District ... Respondents/claimants

4.M.Sudalaimani
5.B.Premavathi ... Respondents/Respondents

PRAYER: Cross Objection filed under Order XLI Rule 22 of the Code of Civil Procedure, against the award dated 06.09.2019 in MCOP No.522 of 2016 on the file of the Principal District Judge/Motor Accidents Claims Tribunal, Thoothukudi.

For cross objector : Mr.V.Sakthivel

For Respondents : Ms.J.Saranya for M/s.N.Sathish Babu

COMMON JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN,J.)

The Civil Miscellaneous Appeal is directed against the judgment and decree dated 06.09.2019 in MCOP No.522 of 2016 on the file of the Principal District Judge/Motor Accidents Claims Tribunal, Thoothukudi.

2. The claimants are the appellants in the Civil Miscellaneous Appeal.

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

On 10.04.2016, about 06.15 a.m., while the deceased was riding Innova Car bearing registration No.TN-09-BD-6066 from Chennai to Kulasekarapattinam, to attend a function, near the Sevalpatti Vilakku, Tuticorin-Madurai National Highways Road, the driver of the Container Lorry bearing registration No.TN-74-AB-6934 which was proceeding ahead of the Innova Car in a rash and negligent manner, applied brake suddenly without any signal or caution lamp, the Innova Car rammed the rear side of the Container Lorry and hence, the Innova car was completely damaged and in the result, the deceased sustained fatal injuries and died on the spot. Therefore, a case in Crime No.105/2016 under Sections 279, 337 and 304(A) of IPC on the file of Kariyapatti Police Station, was registered against the driver of the Container Lorry. At the time of death, the deceased was 30 years old and he was a marketing executive by profession and is a bachelor. The deceased was earning Rs.30,000/- per month. For the death of the deceased, the claimants, who are the mother, elder brother and sister filed a claim petition claiming compensation of a sum of Rs.2,00,00,000/-.

4. The appellant filed the counter statement and denied all the averments made in the claim petition and contended that the accident did not occur due to the rash and negligent driving of the driver of the Lorry and the Innova car without following the traffic rules and maintaining sufficient distance came in the rash manner behind the lorry and dashed against the Container Lorry. Therefore, the accident had happened only due to the negligence of the driver of the Innova Car and prayed for dismissal of the claim petition.

5. In order to prove the case, on the side of the appellants/claimants, before the tribunal, P.W.1 to P.W.3 were examined and 23 documents were exhibited. On the side of the insurance company, though one Sudalaimani was examined as R.W.1, no documents were exhibited.

6. The tribunal, upon considering the oral and documentary evidence, had come to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the vehicle insured with the 3rd insurance company. Based on the oral and documentary evidence let in before the tribunal, the tribunal awarded a sum of Rs.6,42,000/- along with 7.5% interest from the date of filing of the claim petition till the date of deposit and the the insurance company was directed to deposit the said compensation within a period of one month. Challenging the said compensation, the appellants/claimants are before this Court with this appeal.

7. The learned counsel for the appellant assailed the award passed by the tribunal on the ground that though the appellants examined the

employer of the deceased and marked Ex.P22 and P23 to prove the avocation and income of the deceased, the Tribunal failed to consider those documents and had rejected the same on the ground that the deceased has not even completed 10^{th} standard and therefore, it is not possible to have such a high position and get a salary of Rs.30,000/-. The learned counsel would contend that in order to prove the avocation and income of the deceased, the claimants have produced Ex.P1 salary certificate issued by Sun Technosys, pay slip Ex.P20, staff attendance register Ex.P21, acquaintance register Ex.P22 and Ex.P23. However, the tribunal has failed to consider these documents and has taken only the notional income of Rs.6,000/-, which needs to be interfered with.

8. Cross Objection (MD) No.55 of 2025 has been filed by the Insurance Company. The learned counsel for the Insurance Company/cross objector would submit that already in CMA(MD) No. 978/2020, which was preferred by the insurance company challenging the award passed in MCOP No.380/2016 for the person, who died accompanied the driver in the very same accident, wherein, this Court fixed the negligence on the deceased/driver of the Innova car at 20%.

Since this Court had held that the deceased has contributed 20% of negligence, in this case also, the negligence of 20% is towards the deceased/driver of the Innova Car to be fixed. On these grounds, he prays for dismissal.

9. We have heard the learned counsel for the appellants/claimants and the learned counsel for the respondent Insurance Company/Cross Objector and also perused the materials available on record.

10. The manner in which the accident had occurred and the death of the driver of the Innova Car and also the person, who accompanied the driver, is not disputed. Equally, it is not in dispute that the offending truck was insured with the third respondent Insurance Company, which is liable to pay compensation. However, the claimants are concerned about the quantum of compensation fixed by the tribunal and the main ground of attack is only on the income arrived at by the tribunal. As far as the insurance company is concerned, they are aggrieved by the negligence of the deceased in not following the distance rules as enumerated under the Rules and Motor Vehicles Act.

11. As far as quantum of compensation is concerned, a reading of the evidence of P.W.3 - the employer of the deceased would go to show that the deceased was working as a Marketing Executive in Sun Technosys Private Limited and earned a sum of Rs.30,000/- per month. To prove the same, the claimants have produced Ex.P1 - salary certificate issued by Sun Technosys, pay slip Ex.P20, staff attendance register Ex.P21, acquaintance register Ex.P22 and Ex.P23. The insurance company has not seriously disputed the avocation and also income. It is the grievance of the claimants that the Tribunal failed to consider the evidence of P.W.3 and also Exs.P.22 and 23 marked through him and the tribunal has given its own reason for disbelieving the evidence and the documents.

12. Considering the evidence adduced on behalf of the claimants, namely, P.W.3 – employer of the deceased coupled with the fact that to substantiate the avocation and salary, the acquaintance register, pay slip and attendance register have been produced. In the considered view of this Court, it is pertinent to note that the deceased was working as Marketing Executive and earned a sum of Rs.30,000/- per month. A

reading of the evidence of P.W.3 and Ex.P1 and Ex.P19 to P23, this Court finds that the appellants have proved the employment of the deceased and also the income. When the employer was examined and the documents were also exhibited to prove the employment and income of the deceased and when there is no contra evidence produced by the insurance company and no serious dispute is made during cross-examination, the finding rendered by the Tribunal is perverse. Accordingly, the income of the deceased is fixed at Rs.30,000/- per month.

13. As per ***National Insurance Co. Ltd., v. Pranay Sethi and other [2017 (2) TNMAC 609(SC)],*** 40% future prospects is to be added and since the deceased is a bachelor, 50% is to be deducted towards personal expenses and taking into consideration the age of the deceased, the multiplier of 17 adopted by the Tribunal is found to be just and proper. Accordingly, the loss of income would be arrived at as follows:

(30,000 + 40/100 = 42,000) (42,000 x 12 = 5,04,000/-)

14. Perusal of the award shows that the Tribunal has not awarded any amount for the loss of love and affection. The claimants are mother, brother and sister of the deceased. They lost the love and affection of the deceased. Hence, a sum of Rs.40,000/- each totalling Rs.1,20,000/- is hereby awarded for the loss of love and affection. Since the deceased was a bachelor at the time of accident, the award of Rs.15,000/- towards loss of estate is set aside.

15. It is the contention of the insurance company that the Tribunal has grossly erred in not deducting any amount towards income tax as per income-tax slab for the assessment year 2017-18. The income-tax slab for the assessment year 2017-18 is extracted hereunder:-

Net income range	**Tax Rates**
Up to Rs. 2,50,000	Nil
Rs. 2,50,001- Rs. 5,00,000	10%
Rs. 5,00,001- Rs. 10,00,000	20%
Above Rs. 10,00,000	30%
Add : Education Cess	3%

The annual income of the deceased is calculated at Rs.5,04,000/- (42,000 x 12 = 5,04,000/-). As per the above income-tax slab, the income tax is calculated as follows:

Net income range	Tax Rates	Tax amount
Annual Income of the deceased = Rs.5,04,000/-		
Up to Rs. 2,50,000	Nil	Nil
Rs. 2,50,001- Rs. 5,00,000	10%	Rs. 25,000/-
Above Rs.5,00,001/- 20% to be calculated for the balance of Rs.4,000/-	20%	Rs. 800/-
Total		Rs. 25,800/-
Add : Education Cess @3%		Rs. 774/-
Total Tax payable		Rs. 26,574/-

16. Thus, a sum of Rs.26,574/- is liable to be deducted towards the income tax. If Rs.26,574/- is deducted from the annual income of the deceased namely, Rs.5,04,000/-, the annual income works out to Rs.4,77,426/-. Since the dependents of the deceased are 4 in numbers, 1/2th of the income is to be deducted towards the personal expenses of the deceased. After making such deduction, the income works out to Rs.2,38,713/- (Rs. 4,77,426 – Rs.2,38,713/-). Applying 17 multiplier according to the age of the deceased '30', the loss of income is calculated at Rs.40,58,121/-.

17. Accordingly, the award passed by the Tribunal is modified as as follows:

Sl.No.	Heads	Awarded by the tribunal (Rs.)	Modified /reduced/ enhanced (Rs.)
1	Total loss of income	6,12,000/-	40,58,121/-
2	Funeral expenses	15,000	15,000 (confirmed)
3	Loss of estate	15,000	- (set aside)
4	Loss of Love and affection	-	Rs.1,20,000/- (Rs.40,000/- each)
	Total	6,42,000/-	Rs.41,93,121/- (enhanced)

As per the decision of this Court in CMA(MD) No.978/2021, since 20% negligence is fixed on the deceased, the appellants/claimants are entitled to 80% of the enhanced/modified compensation.

18. In the result, the Civil Miscellaneous Appeal is allowed in part and the Cross Objection is allowed in the following terms:

The compensation awarded by the tribunal is enhanced from Rs.6,42,000/- to Rs.41,93,121/- and the claimants are entitled to 80% of the enhanced compensation of Rs.41,93,121/- along with 7.5% interest from the date of petition till the date of deposit. Accordingly, the third respondent is directed to deposit the entire compensation less 20%

towards the negligence fixed on the deceased, which comes to Rs.33,54,497/-. (41,93,121 - 8,38,624) with proportionate interest and costs within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit and reduction being made, the respondents/claimants are permitted to withdraw the entire award amount as apportioned by the tribunal. The 3rd respondent insurance company is permitted to withdraw the excess amount, if any. The Tribunal shall disburse the award amount after permissible deduction made towards income tax. No costs.

[P.V.,J] **[L.V.G.,J]**
30.10.2025

NCC : Yes/No
Index : Yes/No
RR

To
1. Principal District Judge/Motor Accidents Claims Tribunal, Thoothukudi.

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

P.VELMURUGAN, J.
AND
L.VICTORIA GOWRI, J.

RR

ORDER
IN
CMA.(MD) No.554 of 2021 and Cross Objection No.55/2025

Date : 30.10.2025