



C.M.A(MD)NO.1130 of 2014 and 392 of
2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.11.2025

CORAM:

THE HON'BLE MS JUSTICE R.POORNIMA

C.M.A(MD)Nos.1130 of 2014
and
C.M.A(MD)No.392 of 2017

C.M.A(MD)No.1130 of 2014

The Branch Manager,
The National Insurance Company Limited,
Angu Vilas Building, Near Nagaraja Koil,
Nagercoil Agasteeswaram Taluk,
Kanyakumari District. ... Appellant/Respondent-3

.Vs.

1.Sagaya Usharani

2.Minor Jerin

3.Minor Jenis

Minors 2 and 3 are represented by their mother and guardian, the
first respondent herein.

4.Varuvelammal ...Respondents/Petitioners

5.Ayyappan ... Respondent/Respondent-1



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6.A.Kadar Ali(died)

7.Jaleela Beevi

8.Ahmed Sha

9.Ayisha Sahanas

(Respondents 7 to 9 are brought on record as Lrs or the deceased sixth respondent as per order of this Court made in C.M.P(MD)Nos.12196, 12197 and 12198 of 2019 in C.M.A(mD)No. 1130 of 2014, dated 21.09.2021)

C.M.A(MD)No.392 of 2017

1.Sagaya Usharani

2.Minor Jerin

3.Minor Jenis

Minors 2 and 3 are represented by their mother and guardian, the first respondent herein.

4.Varuvelammal

...Appellants/Petitioners

.vs.

1.Ayyappan

2.A.Kadar Ali

3.The Branch Manager,
The National Insurance Company Limited,

2/10



C.M.A(MD)NO.1130 of 2014 and 392 of 2017

Angu Vilas Building, Near Nagaraja Koil,
Nagercoil Agasteeswaram Taluk,
Kanyakumari.

...Respondents/Respondents

PRAYER in C.M.A(MD)No.1130 of 2014: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the fair and decretal order made in M.C.O.P.No.13 of 2011, dated 13.08.2012, on the file of the Motor Accidents Claims Tribunal(The Chief Judicial Magistrate), Nagercoil.

PRAYER in C.M.A(MD)No.392 of 2017: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act to enhance the award amount made in M.C.O.P.No.13 of 2011, dated 13.08.2012, on the file of the Motor Accidents Claims Tribunal(The Chief Judicial Magistrate), Nagercoil.

C.M.A(MD)No.1130 of 2014

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.T.Selvakumaran
1 to 4

For Respondent-5 :Mr.H.Velavadhas

C.M.A(MD)No.392 of 2017

For Appellant : Mr.T.Selvakumaran

For Respondent-1 : Mr.H.Velavadhas

For Respondent-2 : Died



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For Respondent-3 :Mr.S.Srinivasa Raghavan

COMMON JUDGMENT

These appeals, one filed by the Insurance company against the order passed by the Tribunal challenging the negligence and another appeal filed by the claimants with a prayer to enhance the compensation.

2.The case of the claimants is that on 23.3.2018, the deceased James Jayaraj along with his brother in law Mariyendran travelled to Nagercoil by their respective vehicles .The deceased was riding his two wheeler bearing Registration No. T.N 74 H 0094. While returning from Nagercoil, on the same day, near CSI Church main road from east to west at about 6.00 p.m., a Tata Tempo bearing Registration NO. TN 74 C 0639 driven by the first respondent came from the opposite direction from west to east in a rash and negligent manner and dashed against the two wheeler which was driven by the deceased. Due to the impact, he was thrown out of the vehicle and sustained multiple injuries all over the body including severe head injuries. He was immediately taken by an ambulance to Government Medical College Hospital, Asaripallam, wherein, he was medically treated,.



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However, due to grievous injuries he succumbed to death. A case against the first respondent was registered in Cr.No.27 of 2008 of Vellichanthai Police under Section 304(A) IPC under Ex.P1 FIR under Section and the claimants claimed a sum of Rs.10 lakhs as compensation.

3.The third respondent filed a counter affidavit denying the allegation contained in the Petition by stating that the deceased drew the vehicle after consuming alcohol in a rash and negligent manner and dashed on the left side of the vehicle TN 74 C 0639.Due to that, he sustained injuries and succumbed to deaths and a case has been filed against the first respondent without any basis. He would further state that claimants had not produced any document to show his income and also denied that he did not possess valid driving licence.

4.After hearing both sides before the tribunal, on the side of Petitioner, P.W.1 to P.W.3 were examined and Ex.P1 to ExP11 were marked. On the side of the respondent R.W.1 and R.W.2 were examined and Ex.R1 to Ex.R4 were marked. The Tribunal awarded compensation to the tune of Rs.8,51,000/- with interest.

5.Against which the present appeal filed by the Insurance



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Company challenging the liability by stating that the the deceased James Jayaraj drove the vehicle in an ebriated condition and therefore, they are not liable to pay any compensation and also stated that the monthly income fixed at Rs.6000/-by the Tribunal is without any proof and the same has to be reduced and also stated that the reduction of $\frac{1}{3}$ has to be made made by the Tribunal instead of $\frac{1}{4}$, which is not correct and prayed for dismissal of the appeal.

6.The appellants/Claimants filed the appeal by stating that the future prospects instead of 30% the tribunal calculated the same at 25% which has to be enhanced.

7.Heard both sides.

8.The Tribunal ordered pay and recovery and directed the Insurance company to pay the compensation to the claimants and thereafter to recover the same from the owner of the offending vehicle. Though the respondent contended that the deceased had consumed alcohol and was riding the vehicle, under the influence of alcohol, they failed to produce any documentary evidence to substantiate their allegation. The deceased was stated to be working as Mason and therefore the tribunal fixed the monthly



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income at Rs.6000/- which cannot be said to be on the higher side. In the case of person in the age group or 40-50, 30% of the established income has to be added towards future prospects.

9.In this case, the monthly income is Rs.6000/-,add 30% towards future prospects. 30% of Rs.6000/- is Rs.1800/-.Enhanced income is Rs.7800/-.Deduction of $\frac{1}{4}$ the amount from the total income is Rs.1950/-(7800-1950=Rs.5850). Then the annual income is Rs.70,200/-. Thus the loss of income would come to Rs.70,200/- x 14 = Rs.9,82,800/- The award under other heads such as Rs. 25,000/- for loss of consortium to the wife and for loss or love and affection for the claimants 2,3 and 4 at Rs.10,000/-totalling to Rs. 30,000/-, for loss of estate at Rs.10,000/-, funeral expenses at Rs. 5000/-.The total compensation payable to the claimants is Rs. 10,52,800/- with interest at the rate of 7.5% p.a. From the date of claim petition till the date of deposit.

10.In the result the appeal filed by the Insurance Company in C.M.A(MD)No.1130 of 2014 is dismissed and the appeal filed by the claimants in C.M.A(MD)No.392 of 2017 is allowed in part and the award amount is enhanced to Rs.10,52,800/- from Rs. 8,51,000/-. Out of the above said award amount, the first claimant is entitled to a sum of Rs.4,52,800/- and the claimants 2 and 3 are



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each entitled to Rs.2,50,000/- and the fourth claimant is entitled to Rs.1 lakh with proportionate interest and costs. The third respondent is directed to deposit the enhanced award amount less the award amount already deposited if any within a period of eight weeks from the date of receipt of a copy of this order and then to recover the same from the first respondent/owner of the vehicle, as per law. The claimants 1 and 4 are permitted to withdraw their award amount by filing necessary application before the Tribunal, less the award amount already withdrawn if any. The tribunal is directed to deposit the award amount of minors 2 and 3 in any one of the nationalized Bank in a fixed deposit, initially for a period of three years, renewable thereafter till they attain majority and the first claimant mother is permitted to withdraw interest from the said deposit once in three months and utilize the same for the welfare of the Children. No costs.

11.11.2025

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

To

8/10



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2017

The Chief Judicial Magistrate,
(The Motor Accidents Claims Tribunal)
Nagercoil

R.POORNIMA.,J.

vsn

COMMON JUDGMENT MADE IN
C.M.A(MD)Nos.1130 of 2014
and
C.M.A(MD)No.392 of 2017

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