

C.M.A. (MD) No. 902 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.08.2025

Pronounced on : 12.09.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.902 of 2025

1.S.Ganeshamoorthy

2.G.Senthil Kumari

... Appellants/
Claimants

Vs.

1.W.Joseph Shibu

2.The Divisional Manager,
United India Insurance Co. Ltd.,
No.7A, West Veli Street, HUB,
Madurai-1.

3.V.Saravanan

4.The Divisional Manager,
M/s.United India Insurance Co. Ltd.,
D.No.7A, West Veli Street, HUB,
Madurai-1.

5.D.D.Madhu

... Respondents/
Respondents

*(R5 exparte before the trial Court, notice
dispensed with)*



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Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to enhance the compensation amount in M.C.O.P.No. 813 of 2018 on the file of the Motor Accident Claims Tribunal / Special District Court to deal with Motor Accident cases, Madurai dated 12.03.2025 and allow this appeal.

For Appellants : Mr.K.Kumaravel

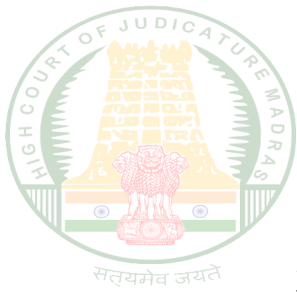
For Respondents : Mr.V.J.Kumaravel for R2 & R4

Mr.R.Anand for R3

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.813 of 2018 dated 12.03.2025 on the file of the Motor Accident Claims Tribunal / Special District Court to deal with MCOP cases, Madurai.

2. The appellants / claimants, who were awarded with a compensation of Rs.14,18,300/- (Rupees Fourteen Lakhs Eighteen Thousand and Three Hundred only) with interest at 7.5% per annum payable by the respondents 2 and 4, for the death of Shanmugaraj, consequent to an accident occurred on 02.01.2017, challenged the quantum of compensation awarded at by the Tribunal.



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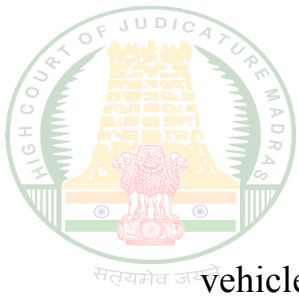
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3. For the sake of convenience and brevity, the parties herein after will be referred to as per their status / ranking in the Tribunal.

4. During enquiry, the claimants examined the first claimant as P.W.1 and one Kalimuthu as P.W.2 and exhibited 13 documents as Ex.P.1 to Ex.P.13. The fifth respondent had remained *ex-parte*. The respondents 1 to 4 adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned order dated 12.03.2025 holding that the accident was occurred due to the rash and negligent driving of the fifth respondent and the third respondent's driver and directed the respondents 2 and 4 being the insurers to pay compensation of Rs.14,18,300/- to the claimants with interest and costs. Aggrieved by the impugned award, the claimants have preferred the present appeal.

6. The learned counsel appearing for the claimants would submit that the Tribunal, after giving such a finding that the driver of both the

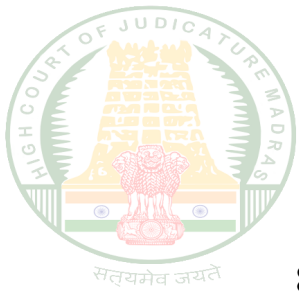


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vehicles were responsible for the accident and consequently mulcted liability on the insurer of both the vehicles, directed them to pay 50% of the compensation each to the claimants, but in the final portion of the order, the Tribunal instead of directing the respondents 2 and 4 to pay compensation of Rs.14,18,300/- each, erroneously deducted 50% of the compensation payable to the claimants.

7. As rightly pointed out by the learned counsel appearing for the claimants, in paragraph No.13 while deciding point No.2, the Tribunal has concluded, “As the second respondent is the insurer of the first respondent and as the third respondent is insurer of the fourth respondent are liable to pay the each 50% of compensation to the claimants.” But the Tribunal before result paragraph, in paragraph No.22 has held, “As already this Tribunal fixed the second respondents and fourth respondent are liable to pay each 50% of compensation in total amount of compensation to the petitioners 1 and 2 (Rs.28,36,600/- - 50% (Rs.14,18,300/-) = Rs.14,18,300/-). Hence this Tribunal is awarded the total compensation Rs.14,18,300/- to the claimants 1 and 2 after deduction of 50% of compensation.”



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8. Considering the above, as rightly contended by the learned counsel appearing for the claimants and conceded by the learned counsel appearing for the respondents 2 and 4, the Tribunal's deduction of 50% of the compensation is inconsistent with its finding that both drivers are responsible for the accident. Given the Tribunal's finding that both insurers are liable, the deduction appears to be an inadvertent mistake that warrants rectification.

9. As already pointed out, the claimants have filed the present appeal challenging the quantum of compensation.

10. The learned counsel appearing for the claimants would mainly contend that the deceased was an engineering graduate and he has already completed his course in Raja College of Engineering and Technology, Madurai but the Tribunal, without considering the above, has mechanically fixed the notional income of the deceased at Rs.18,000/- and the same is liable to be enhanced to Rs.25,000/-.

11. The claimants have produced the transfer certificate of the

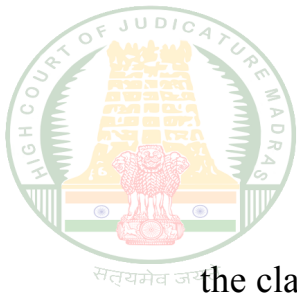


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deceased, wherein, his date of birth shown as 13.11.1993 and considering the above, the Tribunal has rightly fixed the age of the deceased as 24 years. According to the claimants, the deceased has completed his BE course but it is not their case that he was in job at that time. The Tribunal, considering the decisions of this Court in ***Reliance General Insurance Co. Ltd., Vs. A.Senthilkumar and others*** and ***A.Senthilkumar and others Vs. Pyneni Mohit and others***, has fixed the notional income of the deceased at Rs.18,000/-. In the absence of any evidence to show the avocation and income of the deceased and taking note of the fact that the accident was occurred in the year 2017, fixing of Rs.18,000/- is very much reasonable and the same cannot be found fault with. The Tribunal has rightly added 40% of the income towards future prospects and arrived the monthly income at Rs.25,200/-.

12. The learned counsel appearing for the claimants would submit that for loss of consortium and conventional heads, 10% of the amount is to be enhanced for every three years but the said settled principle was not followed in the case on hand. As rightly pointed out by the learned counsel appearing for the claimants, the Tribunal has awarded Rs.40,000/- each to



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the claimants being the parents towards filial consortium and also awarded Rs.15,000/- for funeral expenses and Rs.15,000/- for loss of estate under the conventional heads. As rightly contended by the learned counsel appearing for the claimants, 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)**, 10% of the amount has to be increased every three years. Considering the above, the claimants are entitled to get Rs.48,000/- each towards filial consortium, Rs.18,000/- towards funeral expenses and Rs.18,000/- towards loss of estate. Hence, the claimants are entitled to get total compensation of Rs.28,58,600/-. Considering the above, the compensation awarded by the Tribunal is modified as follows:-

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 income	27,21,600	27,21,600	Confirmed
2.	Consortium	80,000	96,000	Enhanced
3.	Funeral expenses	15,000	18,000	Enhanced
4.	Loss of estate	15,000	18,000	Enhanced
5.	Transport expenses	5,000	5,000	Confirmed
	Total	28,36,600	28,58,600	Enhanced by Rs.22,000/-

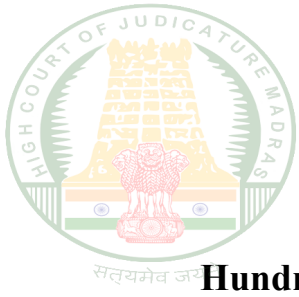


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13. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.28,36,600/- (Rupees Twenty Eight Lakhs Thirty Six Thousand and Six Hundred only) is hereby enhanced to **Rs.28,58,600/- (Rupees Twenty Eight Lakhs Fifty Eight Thousand and Six Hundred only)** together with interest at 7.5% per annum and costs. The respondents 2 and 4 are directed to deposit each 50% of the total compensation with interest at 7.5% per annum from the date of petition till the date of realization excluding the default period, if any, to the credit of M.C.O.P.No.813 of 2018 on the file of Motor Accident Claims Tribunal / Special District Court to deal with MCOP cases, Madurai, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment and on such deposit, the first appellant is entitled to get **Rs.10,00,000/- (Rupees Ten Lakhs only)** and the second appellant is entitled to get **Rs.18,58,600/- (Rupees Eighteen Lakhs Fifty Eight Thousand and Six**



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Hundred only). Accordingly, the appellants are permitted to withdraw their shares along with accrued interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs. The appellants are **directed to pay the court fee** for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of Court fee.

12.09.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To:

1. The Special District Judge,
Motor Accident Claims Tribunal,
Madurai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

**Pre-Delivery Judgment made in
C.M.A.(MD)No.902 of 2025**

Dated : 12.09.2025