



CMA(MD)Nos.249 of 2018 & 475 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 06.11.2025

CORAM :

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN**  
**and**  
**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**CMA(MD)Nos.249 of 2018 & 475 of 2020**  
**and**  
**CMP(MD)No.3690 of 2018**

**CMA(MD)No.249 of 2018 :**

1. The Commandant,  
Tamil Nadu Special Police,  
IX Battalion,  
Manimuthar,  
Tirunelveli.

2. The District Collector,  
Office at Kokkirakulam,  
Tirunelveli.

... Appellants

Vs.

1. Raja Rajeshwari  
2. Subramanian

... Respondents

Prayer :- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal award made in MCOP.No.215 of 2013 dated 22.12.2017 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Tirunelveli, allow the appeal.



CMA(MD)Nos.249 of 2018 & 475 of 2020

WEB COPY

For Appellants : Mr.N.Ramesh Arumugam  
Government Advocate  
For R1 : Mr.T.Selvakumaran  
For R2 : Mr.R.Subramanian

**CMA(MD)No.475 of 2020 :**

Raja Rajeshwari

... Appellant

Vs.

1. The Commandant,  
Tamil Nadu Special Police,  
IX Battalion,  
Manimuthar,  
Tirunelveli.

2. The District Collector,  
Office at Kokkirakulam,  
Tirunelveli.

3. Subramanian

... Respondents

Prayer :- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount in MCOP.No.215 of 2013 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Tirunelveli, dated 22.12.2017.

For Appellant : Mr.T.Selvakumaran  
For R1 & R2 : Mr.N.Ramesh Arumugam  
Government Advocate  
For R3 : Mr.R.Subramanian





*CMA(MD)Nos.249 of 2018 & 475 of 2020*

District Judge, Tirunelveli, claiming compensation of Rs.50,00,000/-.

The appellants/Commandant, Tamil Nadu Special Police, Manimuthar, Tirunelveli and the District Collector, Tirunelveli, filed counter in the said MCOP, contending that the deceased drove the motor cycle in a rash and negligent manner without noticing the oncoming police van and on seeing the same, the driver of the police van turned the vehicle towards right, even then, the deceased hit on the left rear wheel of the van thereby caused the accident. Before the Tribunal, on the side of the claimants, three witnesses were examined as PW1 to PW3 and 11 documents were marked as Ex.P1 to Ex.P11. On the side of the department, three witnesses were examined as RW1 to RW3 and five documents were marked as Ex.R1 to Ex.R5. On conclusion of the trial and considering the oral and documentary evidence, the Tribunal held that the accident occurred only because of the rash and negligent driving of the police van and awarded compensation of Rs.18,61,936/- with 7.5% interest per annum from the date of petition till the date of deposit. Aggrieved by the said award, the police department as well as the claimant have filed these appeals to set aside the award and for enhancement of the award respectively.



*CMA(MD)Nos.249 of 2018 & 475 of 2020*

3. The learned counsel for the appellants in CMA.

249/2018 and respondents 1 and 2 in CMA.475/2020/police department would contend that; the Tribunal failed to consider the counter statement of the department; the Tribunal failed to note that the investigation report of the Inspector of Police is contrary to the version of the claimant; no police officer or independent eye witness was examined to prove negligence on the part of the van's driver; and the accident occurred only due to the negligence of the deceased. On the quantum, the learned counsel would contend that in the absence of any proof, fixation of Rs.14,000/- as monthly income of the deceased is erroneous and the award under other heads are highly excessive. Thus, the learned counsel would pray for setting aside the award passed by the Tribunal.

4. The learned counsel for the appellant in CMA.

475/2020 and 1<sup>st</sup> respondent in CMA.249/2018/claimant would contend that the Tribunal considering the fact that the offending van after hitting the motor-cycle of the deceased, hit against a tree, fixed negligence on the driver of the van belonging to the police department which does not require interference by this Court. On the quantum of compensation, the



learned counsel would contend that the deceased was an industrialist and therefore, the Tribunal ought to have fixed at least Rs.20,000/- as monthly income and accordingly calculated the loss of dependency at Rs.35,84,064/-, whereas, the Tribunal has awarded a meagre sum of Rs. 17,91,936/- towards loss of dependency which requires enhancement. Apart from the above, the Tribunal ought to have granted Rs.70,000/- under the head 'conventional damages'. Thus, the learned counsel would pray for enhancement on the quantum.

5. Heard both sides and perused the records.

6. Though the FIR was not marked in this case, the police filed Ex.R3-final report closing the case as mistake of fact. However, the Tribunal having regard to the fact that the offending van is belonging to the police department, disbelieved Ex.R3 and proceeded to evaluate the evidence independently. Though the police department examined the driver of the van as RW1 to speak about the manner of accident, the Tribunal had given much weightage to the evidence of PW3/independent witness who was standing near the place of



*CMA(MD)Nos.249 of 2018 & 475 of 2020*

occurrence. Though the appellants/department contended that the motor cyclist came rashly and negligently and hit against the rear wheel of the police van, the Tribunal found from Ex.P11-Motor Vehicle Inspector's report that no damage was caused to the left side rear wheel of the van and further finding that after hitting the deceased, due to uncontrollable speed, the police van hit against a tree, the Tribunal held that only because of the terrific speed, the police van could not be stopped immediately which resulted in the accident. Accordingly, the Tribunal fixed the negligence on the driver of the van. In claims cases, the test to arrive at negligence is preponderance of probability. Testing the finding of the Tribunal regarding negligence on the above said principles, this Court finds no perversity in the finding regarding negligence and accordingly, the said finding is confirmed.

7. As far as the quantum of compensation is concerned, though the claimant claimed that the deceased was an industrialist and running a chemical manufacturing company in the name and style of 'Bharat Chemical Industry Limited' and earning Rs.50,000/- profit every month, in the absence of any proof or income tax returns of the said



CMA(MD)Nos.249 of 2018 & 475 of 2020

company, the Tribunal fixed the income at Rs.10,000/- notionally.

Though there was no proof produced by the claimant, it is a common understanding that an industrialist would have earned income at least not less than Rs.10,000/- per month. Therefore, fixation of monthly income by the Tribunal cannot be faulted. The addition of future prospects and application of multiplier cannot be said to be erroneous. Even the award amounts of Rs.40,000/- towards loss of consortium and Rs.15,000/- each towards funeral expenses and loss of estate, are in tune with the judgment of the Hon'ble Supreme Court in *National Insurance Co. Ltd vs Pranay Sethi* reported in 2017 (16) SCC 680. Though the claimant filed appeal seeking enhancement of compensation, we find that fixation of monthly income, addition of future prospects and application of multiplier are just and proper and altogether the award of the Tribunal in our view is a just compensation. No valid ground is made out or materials produced for enhancement of compensation.

8. The appellants in CMA(MD)No.249/2018 is directed to deposit the entire award amount with proportionate interest and costs as awarded by the Tribunal, less the amount already deposited, if any, to



CMA(MD)Nos.249 of 2018 & 475 of 2020

the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant in CMA(MD)No.475/2020/claimant is permitted to withdraw the entire amount by making appropriate application before the Tribunal.

9. In the result, both the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[P.V, J.] [L.V.G, J.]  
06.11.2025

Index : Yes / No  
Neutral Citation : Yes / No  
bala

To

The IV Additional District Judge,  
Motor Accident Claims Tribunal,  
Tirunelveli.



WEB COPY



*CMA(MD)Nos.249 of 2018 & 475 of 2020*

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

bala

**COMMON JUDGMENT MADE IN**  
**CMA(MD)Nos.249 of 2018 & 475 of 2020**

**DATED : 06.11.2025**