



C.M.A(MD)No.1506 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and**

THE HONOURABLE MS.JUSTICE R. POORNIMA

C.M.A(MD)No.1506 of 2024

and

C.M.P(MD)No.15867 of 2024

- 1.The Director,
Department of Public Health
and Immunization,
Greems Road,
Royapettah, Chennai – 6.
- 2.The Deputy Director,
Office of Health Services,
Old Government Hospital Campus,
Pudukkottai Town & District.
- 3.The Block Medical Officer,
Government Primary Health Center,
Parambur Village and Post,
Illuppur Taluk,
Pudukkottai District.
- 4.The Medical Officer,
Primary Health Center,
Pulvayal Village & Post,
Illuppur Taluk,
Pudukkottai District.

... Appellants 1 to 4 /
Respondents 1 to 4



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Vs.

1.B.Balamuthu

2.B.Muthukannu

3.Bhuvaneshwari

4.Minor.Sribala

5.Minor.Srikanth

(R.4 & R.5 minors are represented
through their mother / 3rd Petitioner /
Bhuvaneshwari as Guardian)

... Respondents 1 to 5 /
Petitioners 1 to 5

6.The Director of Family Welfare,
Director of Family Welfare Office,
No.359. Annasalai, Thenampettai,
Chennai – 600 006.

7.The Deputy Director,
District Family Welfare Secretariat,
Old Government Hospital Complex,
Pudukkottai Town and District.

8.The Secretary,
Office of the Health Department,
Secretariat,
Chennai.
(Amended as per the order dated
23.08.2022 in I.A.No.806 of 2022)

... Respondents 6 to 8 /
Respondents 5 to 7

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motors
Vehicle Act, 1988 to set aside the award dated 02.12.2022 passed in MCOP.No.



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111 of 2021 on the file of the Motor Accidents Claims Tribunal / Principal District Judge, Pudukkottai by allowing the Civil Miscellaneous Appeal.

For Petitioner : Mr.K.Selvaganesan
Additional Government Pleader

For Respondents : Mr.H.Arumugam
for N.Vignesh

ORDER

Heard both sides.

2.This appeal is directed against the order dated 02.12.2022 made in MCOP.No.111 of 2021 on the file of Motor Accidents Claims Tribunal, Pudukkottai . One Selvam was working as a driver for Government Primary Health centre, Sevelpatti, Trichy since 04.03.2016. In 2018, he was transferred to Pulvayal Primary Health Centre. Thereafter, he was transferred to the Ministry of Public Welfare vide order passed by the Deputy Director, Office of Health Services, Pudukkottai. When he was working in Public Welfare Department and engaged in official work, on 11.01.2020, the four wheeler driven by himself met with an accident and he passed away. Hence, claim for compensation was made against the Department by the legal heirs of the deceased. The parents, the wife and the children of the deceased are the



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claimants in this case. The wife examined herself as PW1. Karuppaiah was examined as PW2. Ex.P1 to Ex.P17 were marked. On the side of the Department, one Kalaiarasan was examined as RW1. After considering the evidence on record, the Tribunal vide award dated 02.12.2022 directed the Department to pay a sum of Rs.23,51,302/- (Rupees Twenty Three Lakhs Fifty One Thousand Three Hundred and Two only). Appropriate apportionment were also made. Challenging the same, this appeal has been filed.

3.The learned Additional Government Pleader contended that the Tribunal could not have applied the formula laid down in Employee's Compensation Act, 1923 as there is a bar in the statute itself.

4.According to the appellants, the Court below ought to have adopted the formula set out in the Motor Vehicles Act, 1988. On this ground, this appeal has been filed.

5.We are not swayed by the said submission. The Court below had dealt with this aspect. Paragraph 14 of the award reads as follows:

“14.Though I have held in so far as Workman Compensation Act in the earlier point have answered that though this tribunal



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*cannot pass an award under Motor Vehicle Act but still the petitioners are entitled for compensation under Workman Compensation Act as held by the **Division Bench of Hon'ble High Court in 2011 ACJ Venkatesh Vs M.K.V.Kandasamy Nadar and Others** above quoted. Though the tribunal has every powers to award compensation by computing the compensation under the Workmen Compensation Act, 1923 and not referred as Employees Compensation Act, 1923. Hence following the principle enumerated in Section 4 of Employees Compensation Act, 1923 that the compensation has to be computed."*

6.The learned counsel appearing for the claimants / respondents also draws our attention to the decision reported in **2015 (2) TA MAC 362 (DB) (M.Anbalagan Vs L.M.Asalm Basha)**. The said appeal also arose out of the dismissal of the claim petition filed by the appellant before the Motors Accident Claims Tribunal, the Hon'ble Division Bench in the said decision applied the formula laid down in the Employees Compensation Act, 1923 and granted compensation.

7.We are therefore satisfied that the Court below did not commit any error in law by adopting the principles enumerated in Section 4 of the Employees Compensation Act, 1923. We are also satisfied that the quantum



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also does not suffer from any computational error. In any view of the matter,

interference is not warranted.

8.This Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [R.P., J.]
23.01.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

1.Motor Accidents Claims Tribunal /
Principal District Judge,
Pudukkottai.

2.The Director of Family Welfare,
Director of Family Welfare Office,
No.359. Annasalai, Thenampettai,
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