IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2026

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.3292 of 2011
and Cros.Obj No.84 of 2025

In C.M.A.No.3292 of 2011

The Manager
The Oriental Insurance Co. Ltd.,
Divisional Office,
90A, Duraiyur Road, Namakkal. ...Appellant

vs.

1.Kalaiselvi

2.Subiksha

3.Rithanisha

(R2 & R3 are declared as major and the guardianship of their mother, Kalaiselvi is discharged vide order dated 11.02.2026 in C.M.P.No.2848 of 2026 in C.M.A. No.3292 of 2021 & Cros.Obj No.84 of 2025)

4.Minor Dharshana Vijay

(R4 rep. by her mother & next friend Kalaiselvi.)

5.Sellammal

6.Nachimuthu

7.Nallusamy ...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.02.2011 made in M.A.C.T.O.P.No.659 of 2009 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Namakkal.

For Appellant : Mr.M.Krishnamoorthy
For R1 to R6 : Mr.M.A.P.Thangavel

In Cros.Obj No.84 of 2025

1.Kalaiselvi
2.Subiksha
3.Rithanisha
(R2 & R3 are declared as major and the guardianship of their mother, Kalaiselvi is discharged vide order dated 11.02.2026 in C.M.P.No.2848 of 2026 in C.M.A. No.3292 of 2021 & Cros.Obj No.84 of 2025)
4.Minor Dharshana Vijay
(R4 rep. by her mother & next friend Kalaiselvi.)
5.Sellammal
6.Nachimuthu ...Cross Objectors

vs.

1.The Manager
The Oriental Insurance Co. Ltd.,
Divisional Office,
90A, Duraiyur Road, Namakkal.

2. Nallusamy ...Respondents

PRAYER: Cross Objection is filed under Section Order 41 Rule 22 of Code of Civil Procedure, 1908, to enhance the Award in Decree and Judgment dated 18.02.2011 made in M.C.O.P.No.659 of 2009 on the file of MACT / Principal District Court at Namakkal as claimed by the cross objectors / respondents herein with interest and costs by allowing this Cross Appeal in C.M.A.No.3292 of 2011.

For Cross Objectors : Mr.M.A.P.Thangavel
For R1 : Mr.M.Krishnamoorthy

COMMON JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the Award dated 18.02.2011 passed in M.C.O.P.No.659 of 2009 on the file of Motor Accidents Claims Tribunal/Principal District Court, Namakkal, for a change in the quantum of compensation.

2. The claimants herein have preferred cross objection in Cros.Obj No.84 of 2025 against the Award dated 18.11.2011 made in M.C.O.P.No.659 of 2009 on the file of the Motor Accidents Claims Tribunal/Principal District Court, Namakkal, for enhancement of compensation.

3. The parties are indicated herein as per their litigative status and ranking before the Tribunal.

4. The claim petition was filed by the legal representatives of the deceased Jeyakumar, under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.50,00,000/- for the death of Jeyakumar, who died in a road traffic accident that occurred on 19.10.2009.

5. The Tribunal, upon consideration of the oral and documentary evidence and after hearing arguments advanced by either side, granted compensation of Rs.22,23,000/- with interest at the rate of 7.5% p.a. from the date of claim petition. The amounts granted under various heads are given hereunder:

S.No	Description	Amount
1	For loss of dependency	Rs.21,33,000/-
2	For loss of consortium	Rs. 20,000/-
3	For loss of love and affection	Rs. 60,000/-
4.	For funeral expenses	Rs. 10,000/-
	Total	**Rs.22,23,000/-**

6. The learned counsel for the appellant/Insurance Company would contend that the Tribunal has fixed the notional income of the deceased, who was said to be owned three lorries and agricultural lands as per

Exs.P17 to P19/Income Tax Forms, at Rs.20,000/- which is on the higher side for the reasons that after the death of the abovesaid person, his lorries and the agricultural lands are available for the legal representatives and there is no loss of income as such for the legal representatives and this fact is not taken into consideration by the Tribunal.

7. Whereas, the learned counsel for the claimants/cross objectors would strenuously argue that in the absence of the deceased, for managing lorries and agricultural lands, some person has to be appointed in the place of the deceased and in that process, the legal representatives have to spend some amount. He would further argue that based on Exs.P17 to P19, the notional income fixed by the Tribunal is grossly inadequate. He would further state that in the absence of the deceased, as the first claimant is not in a position to manage the properties, she has entered into a sale agreement to sell the lorries as per Ex.P14 and she has also in fact sold out the same to the third party.

8. The manner in which the accident occurred is not in dispute. It has come on record through the evidence of P.W.1 that the deceased was 36 years at the relevant point of time and was doing Tanker Lorry transport business and was also doing agriculture and earning a sum of Rs.35,000/-

p.m. She would further state that her husband has entered into a contract with Indian Oil Corporation and Bharat Petroleum Limited. After the death of her husband, she is not able to look after the business and is forced to sell the lorries.

9. Ex.P14 is the sale agreement entered by the first claimant with one Prabhakar. However, the purchaser connected to Ex.P14 has not been examined by the claimants. Exs.P17 to P19 are the income tax returns of the deceased Jeyakumar for the assessment years 2007-08, 2008-09 and 2009-10, respectively. As per Ex.P17 for the assessment year 2007-08, the annual income is shown as Rs.1,99,000/-. As per Ex.P18 for the assessment year 2008-09, the annual income is shown as Rs.2,69,000/-. As per Ex.P19 for the assessment year 2009-10. the annual income is shown as Rs.3,88,000/-.

10. Ex.P19/Income Tax return was filed after the MCOP. Hence, the same needs no consideration for fixing notional income of the deceased. P.W.1 would state that the deceased was doing lorry transport business and agriculture. As rightly pointed out by the learned counsel for the appellant, the lorries and the agricultural lands will be available with the legal heirs and as such, there is no loss of income due to the death of the

deceased. However, after the death of the said Jeyakumar, P.W.1 would state that she was forced to sell the lorries. In such circumstances, the claim of the P.W.1 to the effect that she has to appoint somebody in the place of her husband to do the agricultural work and in that process, she needs to spend some amount.

11. The date of accident is 19.10.2009. In consideration of the aforesaid details, this Court finds it fit to fix the monthly income of the deceased at Rs.8,000/-. As per law laid down by the Hon'ble Supreme Court in *Sarla Verma -vs- Delhi Transport Corporation and another, reported in 2009(2) TNMAC 1 (SC),* for personal and living expenses for the claimants who are six in number, 1/4 has to be deducted. As per Ex.P4/Postmortem Certificate, the age of the deceased is taken as 36 years and for the age group of persons between 36-40, the relevant multiplier is 15 m. The Hon'ble Supreme Court has standardized the details of future prospects to be added with the income while computing the loss of dependency. For the persons who are not in the permanent job and who are below 40 years. 40% is to be added with the income while computing the loss of dependency. For computing the loss of dependency, following formula emerges:

Rs.8,000/- + 40% -1/4 x 12 x 15 m = Rs.15,12,000/-

12. As held in *National Insurance Co. Ltd., v. Pranay Sethi and others* reported in *2017 (2) TN MAC 609 (SC)*, each claimant is entitled to Rs.40,000/- for loss of consortium. As regards other heads, the amount awarded by the Tribunal appears to be reasonable and acceptable and hence, it need not be interfered with. The amounts awarded by this Court, after rework, is tabulated herein:

<table>
<tr><th>S. No</th><th>Description</th><th>Amount awarded by Tribunal</th><th>Amount awarded by this Court</th><th>Award confirmed or enhanced or granted or reduced</th></tr>
<tr><td>1</td><td>For loss of dependency</td><td>Rs.21,33,000/-</td><td>Rs.15,12,000/-</td><td>Reduced</td></tr>
<tr><td>2</td><td>For loss of consortium</td><td>Rs. 20,000/-</td><td rowspan="2">Rs. 2,40,000/-</td><td rowspan="2">Enhanced</td></tr>
<tr><td>3</td><td>For loss of love and affection</td><td>Rs. 60,000/-</td></tr>
<tr><td>4</td><td>For funeral expenses</td><td>Rs. 10,000/-</td><td>Rs. 10,000/-</td><td>Confirmed</td></tr>
<tr><td></td><td>Total</td><td>Rs.22,23,000/-</td><td>Rs.17,62,000/-</td><td>Reduced by Rs.4,61,000/-</td></tr>
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13. In the result,

(i) The Civil Miscellaneous Appeal filed by the Insurance Company stands partly allowed. The Cross Objection filed by the claimants stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is reduced from Rs.22,23,000/- to Rs.17,62,000/-.

(iii) The appellant in C.M.A.No.3292 of 2011/Insurance Company is directed to deposit the compensation amount i.e., Rs.17,62,000/- (less the amount already deposited, if any) along with interest at 7.5% p.a. from the date of accident till the date of realisation to the credit of M.C.O.P.No.659 of 2009 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Namakkal, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the first respondent in C.M.A.No.3292 of 2011 is entitled to Rs.10,12,000/-, the second to fourth respondents in C.M.A.No.3292 of 2011 are entitled to Rs.2,00,000/- each and the fifth and sixth respondents in C.M.A.No.3292 of 2011 are entitled to Rs.75,000/- each. The claimants/respondents 1, 2, 3, 5 and 6 in C.M.A.No.3292 of 2011 are permitted to withdraw their share of the award amount with interest, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The share of the minor/fourth respondent in C.M.A.No.3292 of 2011 shall be deposited in any one of the nationalized bank in an interest bearing Fixed Deposit, initially for a period of three years, renewable thereafter, till the minor attains majority and the first respondent in C.M.A.No.3292 of 2011, who is the mother of the minor, Kalaiselvi, is permitted to withdraw interest once in three months from the said amount and utilise the same for the welfare of the minor claimant.

(vi) The appellant/Insurance Company is permitted to withdraw the excess award amount deposited by them if any, by filing necessary application before the Tribunal.

16.02.2026

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
apd

To

1.The Motor Accident Claims Tribunal / Principal District Judge, Namakkal.

2.The Section Officer,
3.VR Section,
4.High Court, Madras

R.KALAIMATHI, J.

apd

Pre-Delivery Order made in
C.M.A.No.3292 of 2011
& Cros.Obj No.84 of 2025

16.02.2026