IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 121 of 2020
AND
CMP NO. 21911 OF 2019,CMP NO. 809 OF 2020,
CROS.OBJ NO. 13 OF 2021,CMA NO. 3821 OF 2019

CMA.No.121 of 2020

Royal Sundaram Aliance Insurance Co.Ltd
No.1, Sri Krishna Plaza, No.1, Natchiappa Street,
Erode.

..Appellant(s)

Vs

1. Kandasamy
S/o.Periya Marappa Gounder, Old No.B/28-e,
New Door No.2/62-e, Rasagoundanpalayam,
Kaalivelampatti Post, Palladam.

2. Sarojini
W/o.Kandasamy, Old No.B/28-e, New Door
No.2/62-e, Rasagoundanpalayam,
Kaalivelampatti Post, Palladam.

3. Mani
S/o.Maarappa Nadar, Easwaramoorthy Nagar,
5th Street, Thirupur.

4. M/s.Scotts Garments Ltd.,
No.226/1, Tharapuram Road, Pudhur Piruvu,
Thirupur.

..Respondent(s)

CROS.OBJ No. 13 of 2021 in
C.M.A.No.3821 of 2019

Shanmugasundaram
S/o.Selvaraj, Resi At D No.312 Gandhi Nagar, C R Pillai Lay Out, Palladam.

..Appellant(s)

Vs

1. Royal Sundaram Alliance Insurance Co Ltd
   No.1, Sri Krishna Plaza, No.1, Natchiappa St, Erode.

2. Mani
   S/o Maarappa Nadar, Easwaramoorthy Nagar, 5th St, Thiruppur.

3. M/s.Scotts Garments Ltd
   No.226/1, Tharapuram Road, Pudhur Piruvu, Thiruppur.

4. Kandhasamy
   S/o.Periamarappa Gounder, Old D No.B-28-e, New No.2/62-e, Rasagoundampalayam, Kaalivelampatti Post, Palladam.

5. Reliance General Insurance Co Ltd
   P K A Kanagu Towers, 2nd Floor, 15-a, Thillai Nagar, 11th Cross, Trichy.

..Respondent(s)

CMA No. 3821 of 2019

Royal Sundaram Aliance Insurance Co.Ltd
No.1, Sri Krishna Plaza, No.1, Natchiappa Street, Erode.

..Appellant(s)

Vs

1. Shanmugasundaram
   S/o. Selvaraj, D.No.312, Gandhi Nagar, C.R.Pillai Layout, Palladam.
2. Mani,
   S/o. Maarappa Nadar, Easwaramoorthy Nagar, 5th Street, Thirupur.

3. M/s. Scotts Garments Limited,
   No.226/1, Tharapuram Road, Pudhur Piruvu,
   Thirupur.

4. Kandhasamy,
   S/o. Periamarappa Gounder, Old No.B-28-e,
   New No.2/62-e, Rasagoundampalayam,
   Kaalivelampatti Post, Palladam.

5. Reliance General Insurance Company Limited,
   P.K.A.KANAGU TOWERS, 2ND FLOOR, 15-
   A, THILLAI NAGAR, 11TH CROSS,
   TRICHY (4TH AND 5TH RESPONDENTS
   ARE IMPLEDED BY ORDER IN i.a.37/2014)

..Respondent(s)

CMA No. 121 of 2020

PRAYER : Appeal filed under Section 173 of the Motor Vehicle Act, 1988, to set aside the award and decree passed in M.A.C.T.O.P.No.36 of 2012 dated 31.10.2017 on the file of the Motor Accidents Claims Tribunal, Additional Sub Judge, Tiruppur.

CROS.OBJ No. 13 of 2021 in

C.M.A.No.3821 of 2019

PRAYER : Cross Appeal filed under Order 41 Rule 22 of C.P.C., that the tribunal ought to have awarded at least Rs.2,00,000/- towards loss of permanent disablement instead no amount was awarded by the tribunal as per apex court ruling in Kothandapani case, by allowing this Cross objection with Interest of 9 percent and cost.

CMA No. 3821 of 2019

PRAYER : Appeal filed under Section 173 of the Motor Vehicle Act, 1988, to set aside the award passed in M.A.C.T.O.P.No.35 of 2012 dated 31.10.2017 on the file of the Motor Accidents Claims Tribunal, Additional Sub Judge, Tiruppur.

CMA No. 121 of 2020

For Appellant(s): Mr.Vasudevan G.

For Respondent(s): M/s.Ma.P.Thangavel for R1 & R2
RR3 And 4 - Insufficient Address

CMA.No.3821 of 2019

For Appellant(s): Mr.Vasudevan G.

For Respondent(s): M/s.Ma.P.Thangavel for R1
R2 & R3 – exparte before Tribunal
R4 – no appearance
Ms.C.Bhuvana Sundari for R5

CROS.OBJ No. 13 of 2021

For Appellant(s) : Mr.MA.P.Thangavel
For Respondent(s): Mr.G.Vasudevan for R1
R2, R3 Exparte before Tribunal
R4 & R5 no appearance

Judgment

(Judgment of the Court was delivered by K.RAJASEKAR, J.)

The above Appeals have been filed by the Royal Sundaram Aliance Insurance Company Ltd., (hereinafter referred to as Insurance Company) challenging the common award passed in M.A.C.T.O.P.Nos.35 & 36 of 2012 dated 31.10.2017. The claimant in M.A.C.T.O.P.Nos.35 of 2012 has filed cross objection seeking enhancement of compensation awarded by the Tribunal. Since both Appeals arising out of same accident, Appeals were heard together and common judgment is hereby passed.

2. Heard the learned counsels appearing on either side. The parties have been referred as per the litigation status before the Motor Accident Claims Tribunal.

3. M.A.C.T.O.P.No.35 of 2012 was filed by the injured. The injured is a pillion rider. He travelled along with one Karthik on 09.11.2011 at about 8.20 a.m. in a two wheeler belongs to the deceased Karthik from Tirupur to Palladam. At that time, a bus driven by the first respondent / Mani suddenly entered into the road and hit against the two wheeler which resulted in causing grievous injuries to both the rider and the pillion rider. The rider was succumbed to injuries on 22.11.2011. The injured has also suffered grievous injuries and he come forward with a claim petition seeking compensation of Rs.10,00,000/-. The dependants of the deceased rider Karthik have come forward with a claim petition in M.A.C.T.O.P.No.36 of 2012 seeking compensation for a sum of Rs.25,00,000/-, both invoked Section 166 of the Motor Vehicles Act.

4. The Insurance Company of the bus contested the claim before the Tribunal mainly on the ground that after the accident, FIR was registered against the deceased Karthik. Hence, he is responsible for the accident and insured and insurer of bus are not liable to pay compensation. Further, they have

also disputed the dependency of claimants' income and age of the deceased. It was contended that compensation claimed is on the higher side and the two wheeler was insured with the Reliance General Insurance Company, the said Insurance Company is the necessary party in the Claim Petition in MCOP.No.36 of 2012.

5. The owner and the Insurance Company of the two wheeler had contended before the Tribunal that the accident had occurred due to the negligent and rash driving of the bus driver. Hence, they are not liable to pay any compensation to the claimant in M.A.C.T.O.P.No.35 of 2012.

6. Before the Tribunal, on the side of claimants, the injured / claimant examined himself as P.W.1, Kandasamy / father of deceased, was examined as P.W.2, one Senthil was examined as P.W.3 and Dr.Senthil Kumar was examined as P.W.4 and marked 12 documents as Exs.P1 to P12. On the side of the respondents, one Vaitheeswaran, who is working in the appellant/Insurance Company was examined as R.W.1.

7. The Tribunal, after framing necessary issues, has come to the conclusion that the rider of the two-wheeler *viz*., Karthik, has also contributed to the accident to the extent of 10%. The Tribunal has accepted the case of the claimants that the driver of the bus is also responsible for the accident. The

Tribunal has quantified and awarded compensation for the injured a sum of Rs.6,60,000/- and awarded a sum of Rs.17,60,000/- for the dependants of the deceased Karthik. Aggrieved over the findings of the Tribunal, the Insurance Company of the bus, has filed the above Appeals.

8. The injured / claimant in M.A.C.T.O.P.No.35 of 2012 has raised cross objection for enhancement of compensation and challenged fixing of 10% contributory negligence.

9. We have considered the submissions of both sides and perused the records. Though the learned counsel for the Insurance Company of bus submitted that FIR was registered only against the rider of the two-wheeler and there is no evidence adduced on the side of the Insurance Company of two wheeler to disprove the evidence or the contradictory evidence adduced on the side of the claimants with regard to the manner in which the occurrence had taken place. In this case, P.W.1 / injured pillion rider was examined as eye witness to the occurrence. He has deposed about the manner in which the occurrence had taken place, more particularly, he has narrated the incident that while they were slowly riding in the road, a bus has suddenly entered into the road by overtaking and hit on the two-wheeler which resulted in the accident. This evidence has not been contradicted or disproved by adducing any other eye witness to the occurrence.

10. It is well settled law that to prove the evidence of negligence or the manner in which the accident had taken place, the standard of proof required is preponderance of probability. In this case, the evidence of P.W.1 has not been controverted. The Insurance Company of bus has made an attempt by examining one of the Officers of the Insurance Company. But, admittedly he is not the eye witness to the occurrence. Hence, the evidence of P.W.1 has to be placed in high pedestal, though there was an FIR registered against the rider of two wheeler. Since the evidence adduced on his side is more probable and acceptable, we are of the view that the acceptance of claimants' case by the Tribunal needs no interference with regard to the negligence fixed on the driver of bus.

11. The Tribunal has also fixed 10% of the contributory negligence on the rider of the two wheeler viz., Karthik. There is no evidence to support the same. When there is an evidence placed on record to show that the driver of the bus is responsible for the accident and in the absence of evidence for contributory negligence as against the rider of the two-wheeler and merely because FIR has been registered against the rider of the two wheeler, holding that the rider of the two-wheeler has also contributed to the negligence, is not acceptable. Hence, we are of the view that fixation of 10% contributory negligence on the part of the

rider of the two wheeler is unwarranted and same is hereby set aside. Accordingly, the entire negligent has to be fixed only on the driver of the bus.

12. As far as the quantum fixed on the injured in M.A.C.T.O.P.No.35 of 2012 is concerned, we have gone through the schedule of the compensation awarded by the Tribunal, wherein, the Tribunal has fixed the notional income of the injured as Rs.6,000/- per month. The Tribunal has adopted multiplier method, since it is of the view that the injury sustained by the claimant therein is a functional disability which resulted in causing loss of earning capacity. To prove the disability, P.W.4, a private doctor, was examined and he has also issued a disability certificate which is Ex.B12, wherein, he has narrated about the injury sustained by the claimant in M.A.C.T.O.P.No.35 of 2012. The Tribunal, after considering the injuries which was assessed by P.W.4, has fixed 35% disability and also considering the avocation of the claimant that he was a power loom worker and he could not continue his earlier avocation, has fixed the loss of earning capacity as 30%.

13. We are of the view that fixing of loss of earning capacity requires no interference and the same is reasonable. Since multiplier method is adopted by the Tribunal, the Tribunal has also chosen to award loss of future prospects. However, the Tribunal has granted 50% towards loss of future prospects which is on the higher side. As per the settled principles that a person who is not

having a permanent job or not a government employee, is only entitled for 40% towards future prospects. Accordingly, 50% of future prospects as awarded by the Tribunal is modified to 40%. Accordingly, the quantum of compensation for loss of income alone is modified as follows:

"40% to be added as future prospects : (6000 + [6000 x 40/100] = Rs. 8400/-.

Compensation after multiplier of 18 is applied : 8400 x 12x18x30/100= Rs.5,44,320/-."

14. As far as the other heads are concerned, we found that the same is reasonable and hence, confirmed. Accordingly, the compensation granted in M.A.C.T.O.P.No.35 of 2012 is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced
1.	Salary per month (Rs.6000/-)	6,000	6,000	confirmed
2.	40% to be added as future prospects	6,000 x 50/100 = 3,000	6,000 x 40/100 = 2400	reduced
3.	Compensation after multiplier of 18 is applied	9,000x12x18x 30/100 = 5,83,200/-	8,400x12x18x 30/100 = 5,44,320/-	reduced
4.	Medical bills	57,175/-	57,175/-	confirmed
5.	Pain and suffering	10,000/-	10,000/-	confirmed

6.	Loss of amenities	5,000/-	5,000/-	confirmed
7.	Mental agony	5,000/-	5,000/-	confirmed
8.	Nutrition	1,000/-	1,000/-	confirmed
9.	Transport to hospital	1,000/-	1,000/-	confirmed
	Total	6,62,375/- Rounded off to Rs.6,60,000/-	6,23,495/- Rounded off to Rs.6,23,500/-	reduced by Rs.36,500/-

15. So far as M.A.C.T.O.P.No.36 of 2012 is concerned, the Tribunal after considering the nature of avocation and also the fact that deceased was a student, has fixed the notional income at Rs.7500/- per month. We are of the view that the same is reasonable. Similarly, the Tribunal has fixed future prospects at 50%. As stated supra, it has to be reduced to 40%. The multiplier method adopted is proper and accordingly, the quantum of compensation for loss of income is modified as follows:

"40% to be added as future prospects : (7500 + [7500 x 40/100] = Rs. 10,500/-.

½ of (ii) deducted as personal expenses of the deceased bachelor : 10,500-5250=Rs.5250/-.

Compensation after multiplier of 18 is applied : 5250 x 12x18= Rs.11,34,000/-"

16. We have also gone through the other heads and there is no much dispute regarding the medical bills produced before the Tribunal and Tribunal

has accepted the bills and granted compensation which requires no interference and the same is confirmed. The Tribunal has also awarded a sum of Rs.1,00,000/- to each of the claimants under the head, loss of love and affection. The compensation granted under the head, loss of consortium & love and affection is well settled as per the judgment of the Hon'ble Apex Court reported in ***2017(2)TNMAC 609 (SC) [National Insurance Company Vs. Pranay Sethi & others]***. Even recently, the same principles have been reiterated in the judgment of the Hon'ble Supreme Court in the case of ***V. Pathmavathi vs Bharthi Axa General Insurance Co. Ltd dated 06.02.2026, reported in 2026 INSC 131.***

17. Accordingly, this Court is of the view that granting compensation under the head, loss of love and affection has to be modified and the compensation granted under the said head to both the claimants is modified Rs.80,000/-(Rs.40,000/- each). Similarly, the compensation granted under the head, funeral expenses is modified as Rs.15,000/- instead of Rs.25,000/-. Similarly, claimants are also entitled for Rs.15,000/- under the head loss of estate. Accordingly, the compensation awarded to the claimants in M.A.C.T.O.P.No.36 of 2012 is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced

1.	Salary per month (Rs.7500/-)	7,500	7,500	confirmed
2.	40% to be added as future prospects	7,500 x 50/100 = 3,750	7,500 x 40/100 = 3,000	reduced
3.	½ of (ii) deducted as personal expenses of the deceased bachelor	11,250-5,625 = 5,625/-	10,500 – 5250 = Rs.5250/-	reduced
4.	Compensation after multiplier of 18 is applied	5625x12x18 = 12,15,000/-	5250x12x18= 11,34,000/-	reduced
5.	Medical bills	3,20,889/-	3,20,889/-	confirmed
6.	Loss of Consortium	2,00,000/- (each Rs.1,00,000/-)	80,000/- (each Rs.40,000/-)	reduced
7.	Funeral Expenses	25,000/-	15,000/-	reduced
8.	Loss of estate	-	15,000/-	granted
	Total	17,60,889/- Rounded off to Rs.17,60,000/-	15,64,889/- Rounded off to Rs.15,65,000/-	reduced by Rs.1,95,000/-

18. In the result, these Civil Miscellaneous Appeals and Cross Objection are partly allowed and the compensation awarded by the Tribunal in M.A.C.T.O.P.No.35 of 2012 at Rs.6,60,000/- is hereby reduced to Rs.6,23,500/-, and the compensation awarded by the Tribunal in M.A.C.T.O.P.No.36 of 2012 at Rs.17,60,000/- is hereby reduced to Rs.15,65,000/- with interest and costs. The Insurance Company is directed to

deposit the remaining compensation amount with interest and costs, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw their share of the award amount with interest and costs, as per the ratio of apportionment fixed by the Tribunal, by filing necessary applications before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

(C.V.K.,J.) (K.R.S.,J.)
11-03-2026

Index: Yes
Speaking order
Neutral Citation: Yes

GSK

To

The Motor Accidents Claims Tribunal,

Additional Sub Judge, Tiruppur.

C.V.KARTHIKEYAN J.
AND
K.RAJASEKAR J.

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