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C.M.A.No.1322 of 2022 &  
Cross.Obj.No.8 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 21.01.2026**

CORAM :

**THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR**

**AND**

**THE HONOURABLE MR. JUSTICE R. SAKTHIVEL**

**C.M.A.No.1322 of 2022 &**

**Cross Obj.No.8 of 2026**

**and**

**C.M.P.No.9582 of 2022**

**C.M.A.No.1322 of 2022 :**

The Divisional Manager,  
National Insurance Company Limited,  
D.O.No.110, J.N. Street,  
Puducherry – 605 001.

... Appellant

Vs.

1.Vimala  
2.Minor Oviyakuzhal  
3.Anjalai  
4.K.Ezhilarasi  
(Minor represented by Mother;  
Guardian/N.F.E.Vimala)  
5.A.Zakir Hussain

... Respondents

**Prayer** : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal/Special Subordinate Judge, Cuddalore, in

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M.C.O.P.No.2066 of 2015, dated 20.04.2021.

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For Appellant : Mrs.R.Sree Vidhya

For R1 to R4 : Mrs.Ramya V. Rao

**Cross.Obj.No.8 of 2026 :**

1.E.Vimala  
2.Minor Oviyakuzhal  
3.Anjalai  
4.K.Ezhilarasi  
(Minor represented by Mother,  
Guardian/N.F.E.Vimala)  
5.A.Zakir Hussain

... Cross-Objectors

Vs.

The Divisional Manager,  
National Insurance Company Limited,  
D.O.No.110, J.N. Street,  
Puducherry – 605 001.

... Respondent

**Prayer** : Cross Objection filed under Order 41 Rule 22 of Code of Civil Procedure against the judgment and decree passed by the Motor Accident Claims Tribunal/Special Subordinate Judge, Cuddalore, in M.C.O.P.No.2066 of 2015, dated 20.04.2021.

For Cross-Objectors : Mrs.Ramya V. Rao

For Respondent : Mrs.R.Sree Vidhya



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## **COMMON JUDGMENT**

(Judgment was delivered by **N. SATHISH KUMAR, J.**)

Challenging the Award passed by the Motor Accident Claims Tribunal (Special Subordinate Court), Cuddalore, (hereinafter referred to as “the Tribunal” for brevity) in M.C.O.P.No.2066 of 2015, dated 20.04.2021, the Insurance Company has filed the Civil Miscellaneous Appeal in C.M.A.No.1322 of 2022 and the claimants have filed the Cross Objection in Cross.Obj.No.8 of 2026.

2.For the sake of convenience, the parties will be referred to as per their rank in C.M.A.No.1322 of 2022.

3.Brief facts of the case is as follows :

On 11.02.2015, at about 06.20 hours, when the deceased Ezhilvanan, aged about 29 years, was riding his motor cycle bearing Registration No.TN-31-BA-4385 from South to North Direction near Sivankoil Kulam, Alapakkam, the Car (Chevrolet-Tavera-Tourist-Taxi) belonging to the 5<sup>th</sup> respondent bearing Registration No.TN-51-M-5007 came in the opposite

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direction in a rash and negligent manner at great speed and dashed against the deceased's motor cycle, due to which, the deceased sustained fatal injuries and died on the spot.

4.It is the contention of the respondents 1 to 4, who are the wife, child, mother and sister of the deceased, that the deceased was a Teacher and was earning Rs.7,500/- per month and was also running a Tuition Coaching Centre, earning Rs.12,500/- per month. It is the contention of the respondents 1 to 4 that the deceased was at young age of 29 years at the time of his death and therefore, the respondents 1 to 4 filed a claim petition before the Tribunal in M.C.O.P.No.2066 of 2015 claiming a total compensation of Rs.75,00,000/- under various heads.

5.The appellant, who was the Insurer of the Car owned by the 5<sup>th</sup> respondent, contested the case before the Tribunal by filing their counter affidavit. Before the Tribunal, the appellant disputed the involvement of the Car in the accident. It is the contention of the appellant that the driver of the offending vehicle did not have the required Badge at the time of driving the Car and he did not have the valid driving licence, apart from disputing the

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negligence aspect and income of the deceased.

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6.On the side of the claimants, P.W.1 and P.W.2 were examined and Exs.P1 to P14 were marked. On the side of the respondents before the Tribunal, R.W.1 and R.W.2 were examined and Exs.R1 to R6 were marked.

7.The Tribunal, on considering the oral and documentary evidence on record, by its judgment and decree dated 20.04.2021, found that the accident was due to the rash and negligent driving of the Car owned by the 5<sup>th</sup> respondent and therefore, held that the appellant, who is the Insurer of the Car, is liable to pay the compensation. Further, the Tribunal, considering the fact that the deceased was a Teacher by profession, fixed the notional income at Rs.13,500/-. Thereafter, by adding future prospects, the Tribunal arrived at the monthly income of the deceased at Rs.18,900/-. Thereafter, after deducting the personal expenses of the deceased and by applying multiplier of 17, the Tribunal calculated the loss of income at Rs.25,70,400/-. Besides, the Tribunal awarded the following amounts under various other heads :



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| <b>S. No.</b> | <b>Heads</b>               | <b>Amount Awarded by the Tribunal</b> |
|---------------|----------------------------|---------------------------------------|
| 1.            | Loss of Income             | Rs.25,70,400/-                        |
| 2.            | Loss of love and affection | Rs.2,50,000/-                         |
| 3.            | Funeral expenses           | Rs.15,000/-                           |
| 4.            | Transportation charges     | Rs.5,000/-                            |
| 5.            | Loss of Estate             | Rs.15,000/-                           |
| 6.            | Loss of consortium         | Rs.40,000/-                           |
|               | <b>Total</b>               | <b>Rs.28,95,400/-</b>                 |

8.Accordingly, the Tribunal, awarded a total compensation of Rs.28,95,400/- along with interest at the rate of 7.5% p.a. from the date of claim petition, payable by the appellant Insurance Company.

9.Challenging the Award of the Tribunal, the Insurance Company has filed the above Appeal in C.M.A.No.1322 of 2022 and the claimants have filed Cross.Obj.No.8 of 2026 for enhancement of compensation.

10.Learned counsel appearing for the appellant Insurance Company would submit that the Car belonging to the 5<sup>th</sup> respondent was not at all



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involved in the accident. It is her contention that, in the FIR, it has been mentioned as “white coloured Tavera Car whose registration number not known”. Therefore, she disputed the involvement of the Car bearing Registration No.TN-51-M-5007 in the accident. Further, it is her contention that the claimants have not proved the salary of the deceased by adducing evidence. It is her further contention that an official of the Regional Transport Office (RTO), Chidambaram, (R.W.1) has deposed that the driver of the Car was not holding a valid badge at the time of accident. Therefore, she would submit that the appellant is not liable for paying the compensation.

11.Whereas, the learned counsel for the respondents 1 to 4/claimants would submit that the deceased was running a Tuition Centre and was earning a sum of Rs.13,500/-, besides working as a Teacher in a Matriculation School and earning Rs.7,500/- and therefore, the Tribunal ought to have fixed the monthly income of the deceased at Rs.20,000/-.

12.Heard the learned counsel on either side and perused the entire materials available on record.



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13.The main contention of the learned counsel for the appellant Insurance Company is that the Car bearing No.TN-51-M-5007 was not involved in the accident. To buttress her submission, the learned counsel would rely upon Ex.P1 (FIR) wherein, it is mentioned as “white coloured Tavera Car whose registration number not known”. However, it is relevant to note that, after investigation, final report has been filed, which is marked as Ex.P8. Ex.P8 (final report) clearly indicates that the Car bearing Registration No.TN-51-M-5007 has dashed against the motor cycle driven by the deceased. It is relevant to note that one cannot expect the complainant to give the exact registration number of the offending vehicle immediately after the accident, particularly by the relatives who are in the deep shock after loss of their family member. Therefore, the contention of the learned counsel for the appellant in this regard, cannot be countenanced.

14.As far as the contention of the learned counsel for the appellant that the driver of the offending vehicle did not have valid endorsement to drive “public transport vehicles”, the Constitution Bench of the Hon'ble Supreme Court, in a recent judgment in *Bajaj Alliance General Insurance*

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**Co. Ltd. v. Rambha Devi** reported in (2025) 3 SCC 95, has held as follows :

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*“181.1.A driver holding a licence for light motor vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7500 kg, is permitted to operate a “transport vehicle” without needing additional authorisation under Section 10(2)(e) of the MV Act specifically for the “transport vehicle” class. For licensing purposes, LMVs and transport vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaws, and vehicles carrying hazardous goods.*

*181.2.The second part of Section 3(1), which emphasises the necessity of a specific requirement to drive a “transport vehicle”, does not supersede the definition of LMV provided in Section 2(21) of the MV Act.*

*181.3.The additional eligibility criteria specified in the MV Act and the MV Rules generally for driving “transport vehicles” would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7500 kg i.e. “medium goods vehicle”, “medium passenger vehicle”, “heavy goods vehicle” and “heavy passenger vehicle”.”*



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In view of the dictum of the Hon'ble Supreme Court, the contention of the appellant that the driver of the Car did not have a valid badge for driving transport vehicle (commercial Taxi), has no force.

15.Insofar as the contention of the learned counsel for the claimants is concerned, though Ex.P13 (salary certificate) issued by a private Matriculation School has been marked to show that the deceased was getting a salary of Rs.7,500/-, even to substantiate that Certificate, no one has been examined. However, the Tribunal, on considering the educational qualification of the deceased, i.e., M.A.B.Ed., and the age of the deceased (29 years), was of the view that the deceased would have earned a sum of Rs.13,500/- per month. Further, as per the dictum of the Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi and others* reported in **2017 (2) TNMAC 609**, the Tribunal has added 40% future prospects and fixed the monthly income as Rs.18,900/-. Thereafter, by applying multiplier of 17, the loss of income has been arrived at Rs.38,55,600/-. Thereafter, after deducting 1/3rd towards personal expenses as per the dictum of the Hon'ble Supreme Court in *Sarala Verma and others*

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*v. Delhi Transport Corporation and another* reported in **2009 (2) TNMAC**

*I*, the Tribunal has calculated the loss of income as Rs.25,70,400/-. We are of the view that the same is reasonable. As long as there is no material to show that the deceased was earning more income, we are of the view that the notional income fixed by the Tribunal does not require any interference.

16.However, we are of the view that the sum of Rs.2,50,000/- awarded towards loss of love and affection is on the higher side and therefore, the same is reduced to Rs.1,60,000/-. Further, we are of the view that, having awarded a huge amount towards loss of love and affection, the Tribunal awarding a sum of Rs.40,000/- towards loss of consortium is unwarranted and thereby, the same is omitted.

17.Accordingly, the total award amount is reduced by Rs.1,30,000/- and the modified award amount works out to **Rs.27,65,400/- (Rupees Twenty Seven Lakhs Sixty Five Thousand and Four Hundred only)**. The appellant Insurance Company is directed to deposit the modified award amount, less the amount already deposited if any, before the Tribunal, within a period of four weeks from today.



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18. With the above modification, the Civil Miscellaneous Appeal filed by the Insurance Company in C.M.A.No.1322 of 2022 is partly allowed. Rest of the judgment of the Tribunal remains intact. The Cross Objection filed by the claimants in Cross.Obj.No.8 of 2026 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(N.S.K., J.) (R.S.V., J.)  
21.01.2026

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Internet : Yes

Index : Yes / No

Speaking Order / Nonspeaking order

Neutral Citation : Yes

To

1. The Special Subordinate Judge,  
(Motor Accident Claims Tribunal)  
Cuddalore.

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



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**N. SATHISH KUMAR, J.**  
**and**  
**R. SAKTHIVEL, J.**

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