



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2026

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THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 1042 of 2022

and

CMP No.7702 of 2022

The Manager
Oriental Insurance Company Limited
Mayiladuthurai,
Now functioning office at
No.115/216,
Prakasam Salai, Broadway,
Chennai-600 108.

..Appellant(s)

Vs

1. Kalaiselvi @ Selvi
2. Murthy
3. The Principal,
Dharmapura Adhina Kalaikalluri,
Main Road, Mayiladuthurai Taluk,
Dharmapuram.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, reconsider and reduce the actual award amount against the Judgment and Decree dated 28-10-2021 and made in M.A.C.T.O.P. No. 261 of 2015 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Mayiladuthurai.



For Appellant(s):
For Respondent(s):

Mr.M.Vijayaragavan
Mr.A.Muthu Kumar for R1 & R2
Mr.B.Jawahar for R3

JUDGMENT

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

The present appeal has been filed by the Insurance Company challenging the judgment and decree dated 28-10-2021, passed by the Motor Accident Claims Tribunal, Principal Subordinate Judge, Mayiladuthurai in M.A.C.T.O.P. No. 261 of 2015.

2.On 23.09.2015, one Chithirai Selvan aged about 28 years, who was running Car travels, was proceeding in a two wheeler towards Nanjilnadu Balaji Marriage Hall. At that time, a bus bearing registration No.TN 51 T 2255 driven by its driver in a rash and negligent manner, dashed against the two wheeler and caused the death of Chithirai Selvan. The claimants are parents invoking Section 166 of Motor Vehicles Act, claiming Rs.25,00,000/-.

3.The claim petition was contested by the respondents therein. However, the Tribunal after considering the pleadings and evidences produced, accepted the case of the claimants and held that the driver of the bus was rash and negligently caused accident and fixed the liability on the owner and the insurer of bus. Further, the Tribunal quantified the compensation based on the notional income and awarded a sum of Rs.23,87,000/- as compensation.



4. Aggrieved by the quantum of compensation awarded by the Tribunal, the Insurance Company has filed the present appeal.

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5. Heard learned counsel appearing for the appellant and learned counsel for the respondents.

6. The learned counsel for the appellant submitted that the notional income fixed by the Tribunal is on the higher side and as per the judgment of this Court in *Andal and others vs. Avinav Kannan and others [2019 (1) TN MAC 54 (DB)]*, the notional income of the deceased should have been fixed less than Rs.13,000/- and prays to modify the same and also submitted that the amount awarded under the head loss of consortium is on the higher side.

7. The learned counsel for the claimants submitted that the quantum fixed by the Tribunal is based on the notional income and there is no need for modification of the same and prayed for confirming the same.

8. We have considered the arguments advanced and perused the material records.

9. While fixing the notional income, the Tribunal had taken Rs.15,000/- as monthly income. Though it is stated that the deceased was running a travels and was earning Rs.20,000/- per month, admittedly, the claimants have not



produced any income particulars of the deceased by way of any documentary proof. However, they have produced the driving license and stated that he was

a driver and he operated the vehicle on his own and thereby, he earned income.

Since there is no evidence produced to show the exact income earned by the petitioner herein, we are of the view that fixation of Rs.13,500/- would be appropriate and accordingly, loss of income is arrived as follows:

Monthly Income	:	Rs. 13,500/-
<u>Add:</u> Future Prospects		
40% of Rs.13,500/-	:	Rs. 5,400/-

		Rs. 18,900/-
Annual Income [18,900 * 12]	:	Rs. 2,26,800/-
Multiplier		x 17

		Rs. 38,55,600/-
<u>Less:</u> Personal expenses	:	Rs. 19,27,800/-
[38,55,600 * 50%]		

Loss of Income	:	Rs.19,27,800/-

10.As far as consortium is concerned, the Tribunal had awarded Rs.1,00,000/- each and the same is on the higher side in terms of *National Insurance Co. Ltd. v. Pranay Sethi's case*. Therefore, loss of consortium is to be fixed as Rs.40,000/- per person and the amount awarded under the other heads stands confirmed.

11.We would grant the compensation in the following manner:



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1.	Loss of Income	::	Rs.19,27,800/-
2.	Loss of consortium	::	Rs. 80,000/-
	(Rs.40,000/- x 2)		
3.	Funeral expenses	::	Rs. 15,000/-
4.	Loss of estate	::	Rs. 15,000/-
	Total	::	Rs.20,37,800/-

12.In the result, the Civil Miscellaneous Appeal is partly allowed.

The compensation of **Rs.23,87,000/-** awarded by the Tribunal is hereby reduced to **Rs.20,37,800 /-.** The appellant Insurance Company is directed to deposit the reduced compensation of **Rs.20,37,800/-**, less the amount already deposited, together with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. On such deposit being made by appellant Insurance Company, the claimants are permitted to withdraw their respective shares, as apportioned by Tribunal, along with accrued interest and costs, less the amount, if any already withdrawn by them, by filing necessary application before the Tribunal. No costs. Connected miscellaneous petition is closed.

(C.V.K.,J.) (K.R.S.,J.)
08-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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

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To

The Motor Accident Claims Tribunal,
Principal Subordinate Judge,
Mayiladuthurai.

CMA No. 1042 of 2022

08-04-2026