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CMA No. 94 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-01-2026

CORAM

**THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

**CMA No. 94 of 2026
and CMP.No.986 of 2026**

1. THE MANAGER, Reliance General
Ins Co Ltd,
2nd Floor, Haritha Center, Door No
965, Avinashi Salai, Coimbatore 641
037.

Appellant(s)

Vs

1. Rajeshwari
2.Minor S.Ganga
3.Minor S.Yamuna
4.Sampath
5.Mayilsamy
Nanjamal (Died)
6.Kannan (Driver)

Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Decree and Judgement dated 7th December 2022, passed in M.C.O.P.No.624 of 2016, by the Honble Motor Accidents Claims Tribunal, IV Additional District Court, Coimbatore.

For Appellant: Ms.C.Bhuvasundari
For Respondent: Mr.L.Mouli for R1 to R3

JUDGMENT

(Judgment was delivered by N.Sathish Kumar J.)

Challenging the award made in MCOP.No.624 of 2016 on the file of the Motor Accident Claims Tribunal IV Additional District Court, Coimbatore, the present appeal has been filed. The only challenge in this appeal filed by the



Insurance Company is that double compensation is awarded with regard to the loss of consortium and loss of love and affection.

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2. For the sake of convenience, the parties herein are referred to as per their own ranking before the Trial Court.

3. Brief facts in filing the appeal is as follows:-

3.a. The first petitioner is the wife of the deceased Selvakumar. The second and third petitioners are two daughters of the deceased. The first respondent is sampath, owner of offending vehicle and the second respondent is the insurer of the offending vehicle. The third respondent and the fourth respondent (died) are the parents of the deceased. The fifth respondent is the driver of the offending vehicle. The deceased Selvakumar was working in TANGEDCO aged about 36 years at the time of accident and he was earning Rs.15,000/- per month. On 19.10.2013 at about 7.45 am, while the deceased was riding his two wheeler along with the pillion rider near the Chettipalayam, the offending vehicle driven by the fifth respondent owned by the first respondent in a rash and negligent manner dashed the two wheeler, as a result, the deceased was succumbed to injury on the spot. Hence, the petitioners and the respondents 3 and 4/parents of the deceased filed claim petition before the Tribunal.



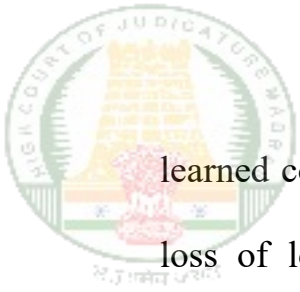
3.b. Though it was contended that the accident occurred only due to the rash and negligent driving of the deceased, the Tribunal disbelieved the contention based on the evidence adduced by PW2/Nallasamy and found that the death has caused due to the rash and negligence of the fifth respondent. Before the Tribunal, on the side of the claimants, first petitioner was examined as PW1 and PW1 examined and Exs.P1 to P7 were marked. The co-worker Thiru Nallasamy was examined as PW2 and though his witness Exs.P8 and P9 were marked. The Junior Engineer was examined as PW3 and Exs.X1 and X2 were marked. On the side of the third respondent/father of the deceased, third respondent himself was examined as RW1 and Exs.R1 to R3 were marked.

3.c. Based on the material and evidences, the Trial Court awarded the compensation as follows:-

Sl.No.	Heads	Calculation
1	Total loss of dependency	Rs.22,01,808/-
2	Loss of consortium	Rs.2,00,000/-
3	Loss of estate	Rs.15,000/-
4	Funeral expenses	Rs.15,000/-
5	Loss of love and affection	Rs.2,00,000/-
Total compensation is fixed at		Rs.26,31,808/-

4. Challenging the same, the insurer of the fourth respondent vehicle herein has preferred the instant civil miscellaneous appeal.

5. The main contention urged before this Court in the appeal by the



learned counsel for the appellant is that towards the loss of consortium and the loss of love and affection, the Tribunal totally awarded Rs.4 lakhs, which according to the Insurance Company is a double compensation and since, the third respondent has already died, total compensation payable in both heads will come to Rs.2,00,000/- instead of Rs.4,00,000/-, in respect of other aspects, the Insurance Company is not challenging the quantum.

6. Mr.L.Mouli, the learned counsel for the respondents 1 to 3 herein fairly submitted that Rs.2,00,000/- can be deducted from the total compensation.

7. Heard the learned counsel for the appellant and the learned counsel for the respondents 1 to 3 and perused the materials placed on record. As the quantum itself is in question before this Court, we are inclined to dispose of this appeal in the admission stage itself.

8. Since the compensation to be awarded towards 'consortium' has been categorically declared as compensation for loss of love, affection, care and companionship, it may not be possible to award further compensation under a separate head as loss of love and affection in the instant case, which otherwise may attract overlapping of other relevant heads in respect of the same cause of action. Presumably it is for this reason, that no separate compensation was awarded by the Constitution Bench of the Apex Court in *National Insurance*



Co. Ltd. v. Pranay Sethi [(2017) 16 SCC 680] towards the loss of 'love and affection', after awarding compensation for 'loss of consortium'.

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9. Such view of the matter and also considering the submissions of both sides, as there is no challenge made with regard to the quantum in respect of other amounts fixed by the Tribunal, we are of the view that the Tribunal granting compensation towards loss of love and affection is liable to be set aside. It is also to be noted that the Tribunal has granted the entire compensation awarded to the mother of the deceased to the father of the deceased as her legal heir, this Court is of the view the same is not proper, since, the children of the predeceased son/minor respondents 2 and 3 are also entitled to half of the share entitled to the mother of the deceased. In all, the total compensation works out to Rs.24,31,808/-. The modified compensation is apportioned as follows:

Sl.No.	Heads	Calculation
1	Total loss of dependency	Rs.22,01,808/-
2	Loss of consortium	Rs.2,00,000/-
3	Loss of estate	Rs.15,000/-
4	Funeral expenses	Rs.15,000/-
Total compensation is fixed at		Rs.24,31,808/-

10. In the result, this Civil Miscellaneous Appeal is allowed as follows:-

(i) The compensation awarded by the Tribunal is reduced from Rs. 26,31,808/- to **Rs.24,31,808/-**. Out of total compensation of Rs.24,31,808/-, the first respondent/wife is entitled to get Rs.4,91,808/- with accrued interest and costs, and the respondents 2 and 3/children are entitled to get Rs.7,75,000/- each with accrued interest and costs. Since, the mother of the deceased died leaving



behind her husband/father of the deceased/fifth respondent, the fifth respondent is entitled to the amount of 3,90,000/-, with respective proportionate accrued interest and costs. The rate of interest awarded by the Tribunal remains in tact.

No Costs. Consequently, connected miscellaneous petition stands closed.

Consequently, connected miscellaneous petition stands closed.

(ii) the Appellant insurance company is directed to deposit the modified reduced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) On such deposit being made, the respondent 1 and 5 are permitted to withdraw their share of the award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any already withdrawn by filing necessary application before the Tribunal. The share of minor respondents 2 and 3 shall be deposited in any one of the Nationalised Bank till they attain majority and the first respondent/mother is permitted to withdraw the accrued interest for the welfare of the minors.

(iv) If at all the Appellant Insurance Company had already deposited the awarded compensation amount, after satisfaction of the award, the Tribunal is directed to refund the surplus deposited money taking note of the reduced compensation amount herein, to the Appellant Insurance Company.

(N.SATHISH KUMAR J.)(R.SAKTHIVEL J.)
22-01-2026

dhk
Index: Yes/No



Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

The IV Additional District Judge
Motor Accidents Claims Tribunal
Coimbatore



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AND
R.SAKTHIVEL J.**

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