



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
05.12.2025

PRONOUNCED ON
22.01.2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**CMA No. 2773 of 2019
and
C.M.P.No.14157 of 2019**

The Manager,
Reliance General Ins. Co. Ltd.,
3rd Floor, 408, Perundurai Road,
Erode – 638 011.

Appellant(s)

Vs

- 1.Mr.M.Subramani
S/o.late Malayappan
- 2.Mrs.S.Kamalaveni
W/o.Mr.Subramaniyan
both residing at Door No.3A,
T.V.Pattinam,
Sivasubramaniyam layout,
Udumalpet Taluk, Tiruppur District.
- 3.Mr.S.Rajavelu
Door No.20/2, Namakkal Road,
North Thiruchencode
Thiruchencode

Respondent(s)

**Prayer:**

Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment passed in M.C.O.P.No.1608 of 2015 on 28.06.2018 on the file of the Learned Motor Accident Claims Tribunal / Additional District Court – II at Tiruppur and be pleased to dismiss the above claim and allow the CMA.

For Appellant(s): Ms.C.Bhuvanasundari
For RR1 & 2 : Served - No appearance
For R3 : Dispensed with vide Court order dated 16.09.2019

JUDGMENT

(Judgment of the Court was made by K.KUMARESH BABU. J.)

This Civil Miscellaneous Appeal has been filed against the award dated 28.06.2018, passed in [M.C.O.P.No.1608](#) of 2015, by the II Additional District Court at Tiruppur, whereby compensation was granted in favour of respondents 1 and 2, who are the legal representatives of the deceased.

2. The background of the case is that the deceased, Rajavignesh who is the son of the respondents 1 and 2 travelled with his friend Naveen Raj in a two wheeler bearing registration No. TN 34 R 7003 from West to East on Covai to Salem NH-47 road on 22.03.2015. At the time of the accident, the deceased was



a student studying 4th year at K.S.R. College of Technology and did a part time job in a Mechanic Shop earning Rs.15,000/- monthly. The rider Naveen Raj drove rashly and negligently and dashed whereby the deceased sustained grievous hurt and was admitted at Avinashi Government Hospital and died. The respondents 1 and 2 are the parents of the deceased filed a claim petition in M.C.O.P.No. 1608 of 2015 for a sum of Rs.50,00,000/-. The tribunal has awarded a sum of Rs.30,06,000/- to the claimant, against which the insurance company filed this appeal.

3. Heard M/s.C.Bhuvanasundari, learned counsel for the Appellant.

4. The learned counsel for the Appellant submits that the tribunal failed to consider that in the accident claims proof of Negligence play a vital role and the respondent 1 and 2 are liable to categorically plead and prove negligence to be entitled to compensation. She also replied upon a judgment of the Apex Court in ***Oriental Ins. Co. Ltd. Vs Premlata Shukla*** and others reported **2007 (2) TNMAC 106** where it was held that proof of negligence is sine qua non for maintaining an application under Section 166 of MV Act. She further submits that the tribunal failed to consider that in the claim petition, it is averred that the insured motorcycle dashed against the deceased whereas in deposition it is mentioned as the deceased was riding pillion. She further submits that the proof



of negligence relying upon a non substantive evidence of FIR is not reliable, the tribunal would have called for a charge sheet.

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5. She further submits that the driving license, RC, insurance of the motorcycle of the rider were not filed to prove the genuineness of the claim. She further contends that the tribunal failed to hold inquiry under Section 168 MV Act. She relied upon the *Pranay Sethi case* and submitted that the Permanent job holders alone claim for notional income and not students. She submits that the compensation award by the tribunal needs to be revisited and prayed to set aside the award of the tribunal.

6. We have considered the submissions of the learned counsel for the Appellant and perused the materials available records. The respondents 1 and 2 inspite of notice having been served upon them and their name printed in the cause list and called in court, remained absent nor they were represented by any counsel.

7. On perusal of Ex.P1 FIR, it is noted that the accident occurred on the Rash and Negligent driving of the driver. Though the FIR is not substantive evidence, it can be corroborated and contradicted as per Section 157 of the Indian Evidence Act. Further it is pertinent to note a judgment *Lalitha Vs*



Vishwanath and others, it is held that it is foremost information the police gets about the commission of an offence and which can be used to corroborate the story put-forward by the first informant under Section 157 of the Evidence Act or to contradict his version by facts under section 145 of the Evidence Act in case he is summoned as a witness in the case by the court.

8. Further, the said statement was substantiated by the deposition of PW1 who is the father of the deceased and PW2, who is the eye witness of the accident, which is not disproved by the Appellant. Hence, the tribunal rightly held that the negligence is on part of the rider of the two wheeler.

9. For the quantum of compensation, the tribunal rightly relied upon the deposition of the PW1 and PW3 to prove the work of the deceased at the time of death. But from the pleading of the petition, it can be seen that the deceased was earning Rs.15,000/- per month, and PW3 who is friend of deceased deposed that he earned Rs.17,000/- whereas the tribunal has taken Rs.18,000/- without any substantive evidence. Considering all this and particularly the claim in the petition, this court fixes Rs.15,000/- as monthly salary and calculates 40% as future prospects to his salary which computed at Rs.21,000/-. Since, he was Bachelor, his half salary would be his contribution to his family. Ex.P2, the postmortem report of the deceased shows the age of the deceased as 22 years at



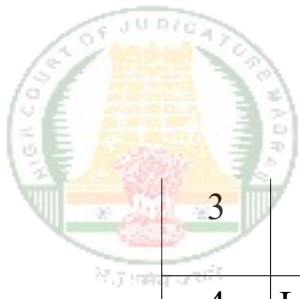
the time of death.

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10. Considering the fact that the deceased is the only son to the respondents 1 and 2, this court enhances the loss of consortium from Rs.25,000/- to Rs.40,000/- for each of them. The funeral expenses is reduced from Rs. 25,000/- to Rs.15,000/- and the loss of estate is computed as Rs.15,000/- in the interest of justice. Further, the amount awarded for transport is reduced as Rs.10,000/- considering the factum and circumstances of the case.

11. In light of the above observations, this Court modifies the Tribunal's award dated 28.06.2018 made in M.C.O.P.No.1608 of 2025 and for better appreciation, the same is tabulated hereunder.

S.No.	Heads of compensation awarded	Amount awarded by Tribunal	Amount awarded by this Court	Award Modified or confirmed
1	Loss of Dependency	Rs.29,16,000/- (Rs.18,000+50% (Rs.9000)= Rs.27,000-1/2 (Rs.13,500)= Rs.13500*12*18)	Rs.22,68,000/- (Rs.15,000+40% (Rs.6000)= Rs.21,000-1/2= Rs.10,500*12*18)	Reduced
2	Loss of affection	Rs.50,000/- Rs.25,000/- each claimants	Rs.80,000/- Rs.40,000/- each claimants	Enhanced



3	Funeral Expenses	Rs. 25,000/-	Rs.15,000/-	Reduced
4	Loss of Estate	-	Rs.15,000/-	Enhanced
5	Transport	Rs.15,000/-	Rs.10,000/-	Reduced
	Total	Rs.30,06,000/-	Rs.23,88,000/-	Reduced

12. In the result, the Civil Miscellaneous Appeal is partly allowed and the respondents 1 and 2 are awarded a compensation of Rs.23,88,000/-. The respondents 1 and 2 are entitled for the distribution of the aforesaid award in the same proportion as granted by the Tribunal. They are also entitled to the interest @ 7.5% per annum from the date of the Original Petition. The Appellant shall deposit the aforesaid amount less any amount that has been deposited earlier together with interest within a period of 30 days from the date of receipt of a copy of this order. Connected miscellaneous petitions is closed. There shall be no order as to costs.

(C.V.K., J.) (K.B., J.)
22-01-2026

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

To

7/9



1. The Motor Accident Claims Tribunal/
Additional District Court - II, Tiruppur.

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



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**C.V.KARTHIKEYAN, J.
and
K.KUMARESH BABU, J.**

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