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C.M.A.No.1980 & 2904 of 2023 & Cross Obj. No.19 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2026

CORAM

THE HONOURABLE MR . JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

C.M.A.No.1980 & 2904 of 2023

&

C.M.P.Nos.19205 and 27215 of 2023

&

Cross Obj. No.19 of 2026

C.M.A.No.1908 of 2023

The New India Insurance Co. Ltd.,
Karur BO (1721301), KVR Compelx
III Floor, 80 Feet Road
Sengundapuram
Karur – 639 002

... Appellant

Versus

1. Smt.K.Murugeswari
2. K.Murugavel Raja
3. K.Karthika
4. Chelliah
5. Smt.Subbuthai
- 6.P.Krishna
- 7.K.Pachaiyappan
8. Reliance General Insurance Co. Ltd.,
2nd Floor, Shri Abirami Towers 43-B
Cowly Brown Road, R.S.Puram



C.M.A.No.1980 & 2904 of 2023 & Cross Obj. No.19 of 2026

Coimbatore – 641 002

9. V.Subramani

10. N.Prabu

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 24.02.2023 made in M.C.O.P.No.2017 of 2018 on the file of Motor Accident Claims Tribunal, V Additional District Judge, Coimbatore.

For Appellant : Ms.R.Sree Vidhya

For Respondent : Mr.M.Rajasekar for R1 to R5

Ms.C.Bhuvanasundari for R8
RR7, 9 and 10 (No Appearance)

C.M.A.No.2904 of 2023

Reliance General Insurance Co. Ltd.,
2nd Floor, Shri Abirami Towers
43B, Cowly Brown Road
R.S.Puram, Coimbatore – 2

... Appellant

Vs.

1. K.Murugeswari
2. K.Murugavel Rajan
3. K.Karthika
4. Chelliah
5. Subbuthai
- 6.P.Krishna
- 7.K.Pachaiappan
8. V.Subramani
9. N.Prabhu



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10. The New India Assurance Co. Ltd.,
Karur Branch, KVR Complex, III Floor, 80 Feet Road
Sengunthapuram, Karur – 639 002 ... Respondents
Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles
Act, 1988 against the judgment and decree dated 24.02.2023 made in
M.C.O.P.No.2017 of 2018 on the file of Motor Accident Claims Tribunal, V
Additional District Judge, Coimbatore.

For Appellant : Ms.C.Bhuavanasundari

For Respondent : Mr.M.Rajasekar for R1 to R5

Ms.R.Sreevidhya for R10
RR6, 7, 8, 9 – No appearance

Cross Obj. No.19 of 2026

1.Smt.K.Murugeswari
2. K.Murugavel Rajan
3. K.Karthika
4. Chellaiah
5.Smt. Subbuthai ... Cross Appellants

Vs.

1.Reliance General Insurance Co. Ltd.,
2nd Floor, Shri Abirami Towers
43B, Cowly Brown Road
R.S.Puram, Coimbatore – 2
2. P.Krishna
3. K.Pachaiyappan
4. V.Subramani
5. N.Prabu
6.The New India Assurance Co. Ltd.,
Karur Branch, KVR Complex
III Floor, 80 Feet Road
Sengunthapuram, Karur – 639 002 ... Respondents



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For Cross-Appellants : Mr.M.Rajasekar

For Respondent : Ms.C.Bhuvanasundari for R1

Mrs.R.Sreevidhya for R6

COMMON JUDGMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

Challenging the award of the trial Court fixing 40% negligence each on both the Insurance Companies, the above Civil Miscellaneous Appeals have been filed. The Cross Objection has been filed by the claimants for enhancement as well as challenging the Tribunal fixing 20% contributory negligence on the part of the deceased.

2. The facts necessary for disposal of these appeals are as follows:

The deceased Kumaravel Rajan, aged about 46 years, was working in Robert Bosch Engineering and Business Solutions Limited and was earning a sum of Rs.1,50,000/- per month as salary. While so, on 09.07.2018, at about 09.00am, when he was travelling in his motorcycle bearing Registration No. TN-67-AJ-7080 from North to South near Railway Gate at Thudialur, the first respondent, who was coming in the South-North direction, drew his motorcycle bearing Registration No. TN-38-CK-7240 in a rash and negligent manner and dashed against the two wheeler of the



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deceased, as a result of which, Kumaravel Rajan fell down from the two wheeler. At that time, a lorry bearing Registration No.TN-47-P-7884, which was coming behind the two wheeler of the deceased came in a rash and negligent manner and ran over the deceased due to which he sustained grievous injuries and died on the spot. Hence, the wife, two children and parents of the deceased have filed a claim petition seeking compensation.

3. It is the case of the second and third respondents that first respondent is no way responsible for causing the accident and it is only the deceased, who drove the two wheeler in a rash and negligent manner and without wearing helmet. The sixth respondent has filed a counter stating that it is for the claimants to prove the fact that the fourth respondent was in possession of valid Driving Licence and also denied the manner of accident.

4. Before the Tribunal, on the side of the claimants, Pws 1 to 3 were examined and Exs.P1 to P17 were marked and on the side of the respondents, RW1 and RW2 were examined and Exs.R1 and R2 were marked. On behalf of the employer, Exs.X1 to X7 were marked through third party.

5. Based on the above pleadings, following issues were framed by the trial Court:



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i) Whether the accident had occurred due to the rash and negligent driving of the rider of the two wheeler bearing Registration No.TN-38-CK-7240 and driver of the lorry bearing Registration No.TN-47-P-7884?

ii) Whether the deceased Kumaravel Rajan drove the two wheeler bearing Registration No.TN67-AJ-7080 in a rash and negligent manner and caused the accident?

iii) Whether the claimants are entitled to get compensation? If so, to what extent?

6. The Tribunal, after appreciation of oral and documentary evidence, fixed 40% negligence on the part of offending two wheeler and 40% negligence on the part of the lorry proceeding behind the two wheeler and also 20% on the deceased since he did not wear the helmet at the time of accident.

7. The learned counsel appearing for the appellant Insurance companies mainly would submit that if Ex.P2-Rough Sketch is carefully seen, 40% negligence ought not to have been fixed on the Insurance Companies and negligence ought to have been fixed only on the deceased and therefore, 20% negligence fixed on the deceased has to be increased.



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8. Per contra, the learned counsel appearing for the claimants would submit that the Tribunal fixed 20% negligence on the deceased without any evidence. In fact, the deceased was wearing helmet and this has been clearly admitted in the evidence. That apart, the deceased was proceeding from North to South direction keeping the left side of road whereas the first respondent driver came in the South to North direction. In fact, the first respondent came on the extreme right side of the road and hit against the two wheeler in which the deceased was travelling, due to the said impact, the deceased fell down and at that time, the lorry which was coming behind the two wheeler of the deceased, without maintaining proper distance, came in a rash and negligent manner and ran over the deceased. Therefore, the Tribunal ought to have fixed entire negligence only on both the Insurance Companies and not the deceased. Further, the deceased was a permanent employee and was drawing a monthly salary of Rs.1,41,119/-. The trial Court, in stead of awarding 30% towards future prospects as per the dictum of Hon'ble Supreme Court in *National Insurance Company Ltd., Vs. Pranay Sethi* reported in *2017 (2) TANMAC 609 (SC)*, has awarded only 25%. Hence, he seeks for enhancement of the compensation.



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9. The learned counsel for the respondents would submit that there is no evidence to show that the deceased was a permanent employee.

Therefore, the trial Court is right in fixing 25% towards future prospects.

10. In the light of the above submissions, now the points that arise for consideration in this appeal are:

i) Whether the Tribunal was right in fixing the contributory negligence on the part of the deceased?

ii) Whether both the offending drivers are equally negligent in causing the accident?

iii) Whether the claimants are entitled for enhancement of compensation, if so, to what extent?

11. On a careful perusal of the evidence adduced on the side of the claimant and Insurance Company it is seen that the factum of the accident and place of accident are not in dispute. Ex.P2-Rough Sketch filed is also not disputed by the respondents. A careful perusal of the Rough Sketch clearly indicates that the first respondent was proceeding from South to North and he gone to the extreme right side of the road i.e., wrong side and



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dashed against the deceased, who was coming in the opposite direction, due to which the deceased fell down and at that time, the offending lorry bearing Registration No.TN47-P-7884, which was coming behind the two wheeler of the deceased, ran over the deceased. It is relevant to note that if the lorry driver has maintained reasonable distance, the accident could have been averted. These facts clearly show that the negligence is both on the lorry driver as well as the first respondent, the rider of the motorcycle. If the driver of the first respondent has not gone to the extreme right side of the road, the accident could have been avoided. All these facts clearly show that both the offending vehicle viz., first respondent and lorry driver are responsible for the accident. Despite the fact that deceased worn the helmet, his entire body has been crushed. The postmortem report also shows that the deceased suffered serious injuries all over the body. There was also a fracture in the sternum and most of the organs have been ruptured. PW3, who was the eye witness also clearly spoken about the manner in which the accident had taken place. His evidence has not been shattered in the cross-examination.



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12. Further, both the Insurance Companies have not produced any material to show that there was contributory negligence on the part of the deceased except examining one of the riders. Therefore, considering the rough sketch and the location of the accident, we are of the view that fixing 20% contributory negligence on the deceased is not proper. In fact, negligence has to be fixed only on both the drivers, namely the driver of the lorry, the fourth respondent as well as the first respondent equally. Accordingly, the Tribunal fixing 20% contributory negligence on the part of the deceased is set aside and we hold that the drivers of the offending vehicles are equally responsible for the accident. Accordingly, both the Insurance Companies are directed to pay the compensation in the ratio of 50:50.

13. Insofar as the Tribunal fixing future prospects, it is not in dispute that the salary slips marked as Exs.X1 to X3 clearly prove the last drawn salary of the deceased. The salary slips till April 2018 have been produced. The deceased died in the month of July 2018. The salary slip of the deceased for the month of April 2018 shows that he was drawing the salary of Rs.1,41,119/- and therefore, the Tribunal has rightly taken Rs.1,41,119/-

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as monthly income of the deceased for arriving at the loss of earning.

However, the Tribunal has added only 25% towards future prospects instead of 30% as directed by the Hon'ble Supreme Court in ***Pranay Sethi (cited supra)***. It is not the case of the respondents that the deceased was not a permanent employee. The appointment order produced by the claimants clearly shows that the deceased was a permanent employee and his salary has been gradually increased from the date of appointment. Therefore, the Tribunal ought to have added 30% towards future prospects in stead of 25%.

Monthly Income of the deceased	=	Rs.1,41,100/-
Add: 30% future prospects		42,330/-

		1,83,430/-
Less Personal Expenses of the deceased		45,857/-

Loss of income		1,37,573/-

Further, the compensation awarded under the heads Parental Consortium, Filial Consortium, Funeral Expenses and Loss of Estate appears to be on the higher side and hence, the same is reduced to Rs.80,000/-, Rs.80,000/-, Rs.15,000/- and Rs.15,000/- respectively. The modified compensation is as



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withdraw the same as apportioned by the Tribunal on due application.

Consequently, the connected miscellaneous petitions are closed. No costs.

[N.S.K.,J.] [V.L.N.,J.]
19.02.2026

Index: Yes/No

Neutral Citation: Yes

gpa

To

Motor Accident Claims Tribunal,
V Additional District Judge, Coimbatore



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