IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2068 of 2023
AND
CMP NO. 20163 OF 2023

1. The New India Assurance Co. Ltd
Third party Claim Cell, No. 45, 2nd lane Beach Moore Street, Chennai - 600 001.

Appellant(s)

Vs

1. E. Thirupura Sundari
W/o. E. Rajendran, No. 14-37, Bajaar Veedhi, Varadaiah Palayam Village and mandalam Chiittoor District Andhra Pradesh - 517 541. Now residing at Panjetty Village and Post, Ponneri Taluk, Tiruvallur District

2.E. Rajendran
S/o. Late. Munuswamy, No. 14-37, Bajaar Veedhi, Varadaiah Palayam Village and mandalam Chiittoor District Andhra Pradesh - 517 541. Now residing at Panjetty Village and Post, Ponneri Taluk, Tiruvallur District

3.Sambasiva Rao Kosuri
S/o.Subbu Rao, No.1-120, Ampapura, Bapulapadu, Krishna District, Andhra Pradesh 521 109.

Respondent(s)

CMA No. 2068 of 2023

PRAYER

To set aside the Order dated 20-03-2023 made in M.C.O.P.No.140 of 2018 on the file of the Motor Accident Claims Tribunal(IV Additional District and Sessions Court, Tiruvallur at Ponneri) and be pleased to dismiss the claim for compensation and thus render justice.

CMA No. 2068 of 2023

For Appellant(s): Mr.S. Dhakshnamoorthy

For Respondent(s): Mr.R.Venkatesulu For R1 And R2 R3 - No Appearance

ORDER

This Civil Miscellaneous Appeal has been filed to set aside the Order dated 20-03-2023 made in M.C.O.P.No.140 of 2018 on the file of the Motor Accident Claims Tribunal(IV Additional District and Sessions Court, Tiruvallur at Ponneri).

2.The brief facts of the case are:

The respondents 1 & 2 herein filed M.C.O.P.No.140 of 2018 on the file of the Motor Accident Claims Tribunal(IV Additional District and Sessions Court, Tiruvallur at Ponneri) claiming compensation for the death of their son/master E.Subash. The deceased said to have traveled as Pillion in the two wheeler bearing registration No. AP 03 BR 2376 proceeding in the G.N.T Road, Nagathamman Road. At that time the driver of the lorry, bearing registration No. AP 04 V 9636 proceeding on the same direction, drove the lorry in a rash and negligent manner, hit the deceased who travelled as a pillion rider in the two wheeler, due to which the deceased was thrown into the road and succumbed to crush injuries.

2.1. Thereafter, first and second respondents filed the petition before the tribunal claiming compensation against the owner of the lorry as well as Insurance Company. The said petition was contested by the Insurance Company/appellant herein however, the owner of the vehicle remained exparte.

2.2. The claimants contended that the accident happened due to the rash and negligent driving of the driver of the lorry which was insured with appellant company. On the other hand, the insurance company, while admiring that the lorry was insured at the time of the accident, contended that at the time of the accident three persons were traveling in the two wheeler thereby they violated the policy conditions and contributed to the accident.

2.3. On side of the claimants/petitioners, two witnesses were examined and marked 16 documents. There is no witness or documents marked on the side of the respondents.

3. Considering the oral and documentary evidence, the Tribunal has fixed 13 years as age of the deceased based on the birth certificate, Identity Card and passport. At the time of the accident, the deceased was studying 9th standard and the petitioners also proved that deceased was a brilliant student, who received awards and certificates. On perusal of the extra curricular activities, the tribunal held that the deceased was a brilliant student; he would have acquired

professional degree, if he had been alive. Therefore, the Tribunal fixed a sum of Rs.11,000/- as notional income of the deceased and fixed 40% as future prospects and applied multiplier 18, and awarded a sum of Rs.17,84,200/- as compensation. Challenging the award passed by the tribunal, the Insurance company filed this Civil Miscellaneous Appeal.

4. The learned counsel for the appellant submits that tribunal went wrong by fixing notional monthly income of the deceased as Rs.11,000/-. Further, it added 40% towards future prospectus for the minor who was aged about 13 years at the time of the accident and also applied multiplier of 18 instead of 15. To support his arguments, the learned counsel relied on the judgements of Honourable Apex Court in the case of *Rajendra Singh and Ors. Vs. National Insurance Company Ltd and Ors reported in MANU SC 0486 (2020)*. Further, the learned appellant's counsel argued that the Tribunal has awarded huge compensation without considering the fact that petitioners’ son died at earlier age and there is uncertainties with regard to his academic achievement in future. Hence, he prayed to set aside the award passed by the tribunal.

5. By way of reply, the learned counsel for the claimants/first and second respondents submit that the accident happened solely due to the negligence of the driver of the lorry, who has driven the lorry in a rash and negligent manner and hit the two wheeler from behind. There is no negligence on the part of the two wheeler. He also contended that the deceased was a brilliant student who has received various awards. On considering the same, the Tribunal has rightly

fixed notional income and also awarded compensation which requires no interference. Further, to substantiate his arguments he relied on the following judgements:

i. Kajal Vs. Jagadish Chand and other reported in (2020) 4 SCC 413
ii. Master Ayush Vs. Branch Manager, Reliance General Insurance reported (2022) 7 SCC 738
iii. Baby Sakshi Greola Vs. Manzoor Ahmad reported (2024) SCC Online SC 3692
iv. Uma Shankar and another Vs. Sunny and others reported (2025) Scc Online Del 1132
v. Rakesh Sharma and another Vs. Ashok and others reported (2025) SCC Online Del 1364.

6. Heard both sides.

7. Admittedly, the appellant has not challenged manner of the accident and liability fixed by the tribunal, but only with regard to quantum fixed by the Tribunal, the appellant/Insurance Company has filed this Civil Miscellaneous Appeal.

8. The deceased is the son of first and second respondents herein. Through Ex.P14/Identity Card and Ex.P15, proved that at the time of the accident, the deceased was aged about 13 years and studying 9th standard at Vellamal International School. According to the first and second respondents/claimants, their son was top rank holder of the said school and also achieved top position in school competitions and to prove the same, the respondents 1 & 2 produced the award and certificates which were marked as exhibits which shows that the deceased secured top rank in the International

School Olympiad. On considering the above document, the Tribunal has rightly held that deceased was a brilliant student as he secured first rank in school studies.

9. As far as fixation of the notional income is concerned, the tribunal has fixed a sum of Rs.11,000/- as notional income of the deceased by stating that the deceased was brilliant student and he would have secured high professional carrier in future. But notional income fixed by the tribunal was strongly objected by the appellant's counsel stating that since the deceased was aged below 15 years, fixing a sum of Rs.11,000/- as notional income without any basis as such is incorrect one and is untenable. The Trial Court should have assessed the notional income on the basis of the minimum wages payable to a skilled workman. To substantiate his argument the appellant's counsel relied on the judgement in the case of *Cholamandallam MS. General Insurance Company Ltd. Vs. Bhupan Paswan & others in SLP No. 17412 of 2025*:

> *20. Subsequently, in Master Ayush vs. Branch Manager, Reliance General Insurance Co. Ltd., (2022) 7 SCC 738, the Apex Court while considering the grant of compensation to the parents on account of injuries suffered by a five-year-old child, relied upon Kajal (Supra) and observed that the notional income should be calculated on the basis of minimum wages payable to a skilled worker.*
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> *21. Similar observations were made in Minor Roopa vs. The Divisional Manager, New India Assurance Company Ltd., Civil Appeal No.5069 of 2022 decided on 03.08.2022 and the Apex Court assessed the compensation based on minimum wages notified by the State of Karnataka.*
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> *22. Recently, in Oriental Insurance vs. Reena Raghav, 2023 SCC OnLine Del 6695, wherein the deceased was a 5-year-old-girl-child, studying in DPS Public school, the Coordinate Bench*

of this Court upheld the Impugned Award of compensation and assessed the income of the deceased by adopting minimum wages of a skilled labour as notified in the State of Uttar Pradesh.

10. By relying on above judgement, the learned appellant's counsel prays to modify the notional income fixed by the Tribunal on the basis of minimum wage index. The judgements relied on by the appellant's counsel is related to the age of 5 year child old, however in the present case, the age of the deceased is aged about 13 years. Hence, the above case is not applicable to the present case.

11. The learned counsel for the first and second respondents relied on the judgements in the case of *Oriental Insurance Company Limited Vs. Soundary Rep. By Guardian/next friend K. Nagaraj, reported 2018 SCC Online Mad 6818, submitted that c*onsidering the brilliancy in future he would have achieved high professional carrier if he is alive, that tribunal keeping in mind has rightly fixed notional income which requires no interference.

12. It is true that the deceased was aged about 13 years and was studying in 9th standard at time of the accident. He was the only son of first and second respondents. He was a brilliant student in the school and the same was proved through certificate/Ex.P13. Therefore, the notional income fixed by the tribunal is based on the Principle of minimum wages for skilled workers, as such, is justifiable and requires no interference.

13. As far as adopting multiplier is concerned, the learned counsel for the appellant raised objection stating that multiplier 15 should have been adopted by considering age of the deceased. Admittedly, appropriate multiplier applicable to different age groups is laid down in case of *Sarala Verma*. But it starts from the age of 15 but it is silent about the multiplier to be used under 15 years. In the present case, deceased is aged about 13 years. While dealing with a similar situation in the *Rakesh sharma and Another Vs. Ashok and others reported in (2025) SCC Onlin Del 1364,* the High Court had adopted 18 multiplier for deceased aged below 15 years, which is squarely applicable to the present case. Hence, 18 multiplier adopted by the tribunal requires no interference.

14. In view of the above reasoning, the award passed by the tribunal requires no interference and the same is confirmed. The Appellant/Insurance Company is directed to deposit the entire award amount with 7.5% interest, within a period of 6 weeks from the date of reciept of a copy of this order, deducting the amount already deposited. Accordingly, this Civil Miscellaneous Appeal is dismissed. No Cost. Pending petition(s), if any, is/are closed.

18.03. 2026

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T.V.THAMILSELVI J.
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To
1. The Motor Accident Claims Tribunal(IV Additional District and Sessions Court, Tiruvallur at Ponneri).
2. The Section officer, V. R Section, High Court, Madras.

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