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C.M.A.No.2319 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2026

CORAM

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.2319 of 2024

1. Mrs.Mageswari, W/o.Balu
2. Mr.Balu, S/o.Annamalai
3. Swetha, D/o.Balu

... Appellants

vs

1. S.Bharathi
2. The Manager
Iffco Tokio General Insurance Company Ltd.,
No.128, Habibullah Road
2nd and 3rd Floor
T.Nagar, Chennai - 600 017

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order dated 29.01.2024 made in M.A.C.T.O.P.No.1477 of 2022 on the file of Motor Accident Claims Tribunal, Chennai (in the II Court of Small Causes, Chennai).

For Appellant : Mr.F.Terry Chella Raja

For Respondent : Mr.K.Poomalai for R2
R1-No appearance



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JUDGMENT

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[Judgment of the Court was delivered by **C.V. KARTHIKEYAN, J.**]

This appeal has been filed by the claimants challenging the contributory negligence fixed on the deceased and also seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Chennai (in the II Court of Small Causes, Chennai) in M.A.C.T.O.P.No.1477 of 2022 by the award dated 29.01.2024.

2. It is the case of the appellants/claimants that they are the dependents of the deceased Srinivasan, who died in the accident that took place on 20.03.2022 at about 12.10 hours. According to the claimants, the deceased was riding a motorcycle bearing Registration No.TN 06 AA 6530 on Adyar Club Gate road from north to south and when he turned towards east to Boat Club first Avenue Road, a lorry bearing Registration No.TN 02 3699 came in a rash and negligent manner and hit against the deceased due to which the deceased sustained multiple injuries and died on the same day. Claiming that driver of the lorry alone is responsible for the accident and the 1st respondent being the owner and the 2nd respondent being the insurer alone are liable to pay the compensation, the claimants filed the above claim



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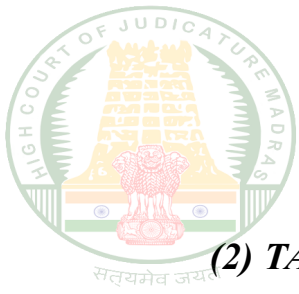
petition.

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3. The second respondent Insurance Company resisted the claim on the ground that the accident had occurred only due to the negligence on the part of the deceased himself and that apart, the deceased was not having valid driving licence as on the date of the accident and hence, the second respondent is not liable to pay the compensation.

4. Before the Tribunal, on the side of the claimants, PWs 1 and 2 were examined and Exs.P1 to P17 were marked. On the side of the second Respondent, no oral evidence was adduced and no documents were marked.

5. The Tribunal, on appreciation of materials and evidence, held that the accident had occurred due to the rash and negligent act of the driver of the 1st respondent lorry bearing Registration No.TN-02-3699. Though the tribunal has come to the conclusion that the accident is the result of rash and negligent act of the first respondent lorry, the Tribunal held that 10% contributory negligence has to be fixed on the deceased as the deceased was not in possession of valid driving licence. The Tribunal relied on the judgment in *Sarla Verma Vs. Delhi Transport Corporation* reported in 2009



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(2) TANMAC I (S.C) and held that the second claimant who is the father of the deceased is not a dependent to the deceased and directed the first respondent being the owner of the lorry and second respondent being the insurer of the lorry to pay the compensation to claimants 1 and 3 subject to deduction of 10% towards contributory negligence on the part of the deceased. Aggrieved by the fixation of 10% contributory negligence on the part of the deceased and also the quantum of compensation awarded under the other heads, the claimants have filed the present appeal.

6. Heard learned counsel for the appellants/claimants and learned counsel for the second respondent insurance company.

7. The learned counsel for the appellants/claimants would submit that a case has been registered against the driver of the lorry and First Information Report has also been marked as Ex.P9 and the Tribunal, on the basis of the aforesaid document, found that the accident had occurred only due to the rash and negligent driving of the lorry, but however erroneously fixed 10% contributory negligence on the part of the deceased. The learned counsel also submits that the compensation awarded under the other heads also needs enhancement.



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8. The learned counsel appearing for the 2nd respondent Insurance

Company submitted that the accident had occurred only due to the fault of the deceased and he was not in possession of valid driving licence. He further submits that no valid grounds have been raised in the appeal for enhancement of compensation amount and hence, prayed for confirming the award.

9. We have carefully considered the arguments advanced on both sides and perused the materials placed before this Court.

10. We are of the view that after holding that the driver of the first respondent lorry is responsible for the accident, fixing 10% contributory negligence on the deceased for not having the Driving Licence is unwarranted. Once the negligence is fixed on the driver of the first respondent lorry, non-possession of driving licence is not a ground to fix contributory negligence on the part of the deceased. Absolutely there is no evidence to show that the deceased has contributed to the accident. Merely on presumption, contributory negligence cannot be fixed. Accordingly, 10% contributory negligence fixed on the part of the deceased is set aside.



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11. This Court finds that the deceased was a college student at the

time of accident and we are of the view that, if the deceased had been alive, he would have earned not less than Rs.18,000/- as monthly income. Therefore, a sum of Rs.18,000/-is fixed as the monthly income of the deceased to arrive at a just and reasonable compensation. Accordingly, the compensation payable under the head 'loss of dependency' is re-calculated as follows:

Monthly income	:	Rs. 18,000/-
Add: Future Prospects	:	Rs. 7,200/-
25% of Rs.12,000/-	:	-----
		Rs. 25,200/-
Less: Personal expenses		
1/2 of Rs.25,200/-	:	Rs. 12,600/-

		Rs. 12,600/-
Annual income (12,600 * 12)	:	Rs. 1,51,200/-
Multiplier	:	x 18

		Rs.27,21,600 /-



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12. We are of the view that the compensation awarded under other

heads does not require any interference and the same is confirmed. Further, the trial Court has already dismissed the claim petition as against the father of the deceased holding that he is not a dependent to the deceased. We are not inclined to interfere with the said finding. Accordingly, the modified compensation payable would be:

Sl.No.	Compensation awarded under the head	Award of the Tribunal (in Rs.)	Award of this Court (in Rs.)
1.	Loss of dependency	24,19,200/-	27,21,600/-
2.	Loss of consortium	96,000/-	96,000/-
3.	Loss of estate	18,000/-	18,000/-
4.	Funeral expenses	18,000/-	18,000/-
	Total	25,51,200/-	28,53,600/-
	Less: Contributory negligence (10%)	2,55,120	-
	Compensation payable	22,96,080/- (Rounded off to Rs.22,96,100/-	28,53,600 /-



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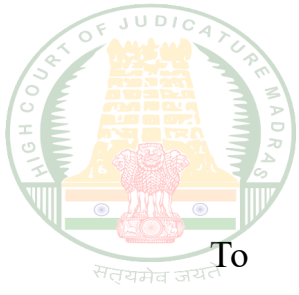
13. Accordingly, this Civil Miscellaneous Appeal is partly allowed.

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The compensation of Rs.22,96,100/- awarded by the Tribunal is hereby enhanced to Rs.28,53,600/- [Rupees Twenty Eight Lakhs Fifty Three Thousand and Six Hundred only]. Respondent Insurance Company is directed to deposit the enhanced compensation amount of Rs.28,53,600/- [Rupees Twenty Eight Lakhs Fifty Three Thousand and Six Hundred only], less the amount already deposited, together with proportionate interest and cost, within a period of four weeks from the date of receipt a copy of this judgment. On such deposit, appellants 1 and 3/ claimants 1 and 3 are entitled to withdraw the same on due application. No costs.

[C.V.K., J] [K.R.S., J]
03.06.2026

Index: Yes/No
Neutral citation: Yes/No
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To

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1. The Motor Accident Claims Tribunal, Chennai
(in the II Court of Small Causes), Chennai
2. The Section Officer
VR Section
Madras High Court



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