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C.M.A.No.2911 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2026

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.2911 of 2025

1.Sangeetha
2.Minor Krithika
3.Minor Surendiran
(2 & 3 Minors are represented
by Next Friend/Mother/Sangeetha)
4.Krishnammal
5.Nagaraj

... Appellants / Petitioners

vs.

1.C.Venkatesh

2.The Manager,
TATA AIG General Insurance Company Ltd.,
No.403 & 404, Central Park,
580, Tilak Road, Chittor, A.P.State,
Tirupathi-517 501.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Order dated 30.08.2024 passed in M.C.O.P.No.827 of 2022 on the file of the Motor Accident Claims Tribunal / Special District Court, Krishnagiri.

For Appellants : Mr.S.P.Yuvaraj

For Respondents : Ms.C.Harini

for M/s.M.B.Gopalan Associates [R2]



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JUDGMENT

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Feeling aggrieved by the Award dated 30.08.2024 passed in M.C.O.P.No.827 of 2022 on the file of the Motor Accident Claims Tribunal / Special District Court, (to deal with the MCOP cases), Krishnagiri, the legal heirs of one Devendhiran have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. Claim petition was filed under Section 166 of Motor Vehicles Act, 1988 by the legal heirs of one Devendhiran, claiming compensation of Rs.50,00,000/- for the death of Devendhiran who died in a road traffic accident that took place on 13.04.2022.

4. The Tribunal upon consideration of evidence and after hearing the arguments advanced by either side, passed an Award for a sum of Rs.26,72,200/- (less Rs.5,34,440/- towards 20% contributory negligence) with 7.5% interest per annum from the date of claim petition payable by the 2nd respondent/Insurance Company at the first instance with liberty to

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recover the same from the 1st respondent thereafter. The amounts awarded under different heads are given hereunder:-

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For loss of Dependency Rs.24,19,200/-; For loss of Estate Rs.16,500/-; For Funeral Expenses Rs.16,500/-; For loss of Consortium Rs.2,20,000/-.

5. The learned counsel for the appellants would strenuously argue that the deceased was cattle seller besides doing painting work and coolie work and he was earning a sum of Rs.30,000/- per month at the time of accident. But the Tribunal has fixed the notional income of the deceased at Rs.12,000/- is inadequate. He would further contend that the Tribunal has fixed 20% contributory negligence upon the deceased by holding that the deceased drove his vehicle without driving licence, without insurance and without R.C.Book, which is on the higher side.

6. Per contra, the learned counsel for the 2nd respondent / Insurance Company Ms.C.Harini for M/s.M.B.Gopalan Associates would vehemently state that taking into account the age, income of the deceased and other attending circumstances, the Tribunal has fixed the amounts under different heads appears to be reasonable and hence, according to her, it does not warrant any interference by this Court.

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7. It has come on record through the evidence of PW1 that the deceased Devendhiran was a cattle seller, and painter and earning a sum of Rs.30,000/- per month at the relevant point of time. To substantiate the said details, no concrete proof is filed and marked. Taking into consideration of the aforestated details, this Court deems fit to fix his income at Rs.15,000/- per month.

8. As per Ex.P12 Aadhaar card, age of the deceased is taken as 35 years at the relevant point of time. As held in **Smt.Sarla Verma and Ors., v. Delhi Transport Corporation and Another** reported in **2009 (2) TN MAC 1 (SC)**, the relevant multiplier to be adopted is 16m. The claimants are five in number (wife, two minor children, father and mother of the deceased). In the matter of deduction for personal and living expenses, if the dependents of the deceased are 4 to 6, then 1/4th has to be deducted.

9. As regards future prospects, the Hon'ble Supreme Court has standardised the details in **National Insurance Co. Ltd., v. Pranay Sethi and others**, reported in **2017 (2) TN MAC 609(SC)**. For the age group of persons below 40 years for the self-employed persons, 40% has to be added along with the income for computing loss of dependency.

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10. Based on the aforesaid details, for computing loss of dependency, following formula emerges :-

$$\text{Rs.15,000/-} + 40\% - 1/4 \times 12 \times 16\text{m} = \text{Rs.30,24,000/-}.$$

11. As regards the second point put-forth by the learned counsel for the appellant, it has been stated in the counter that the deceased had only licence to drive Light Motor Vehicle (LMV). Further it has been stated that the deceased is the owner of Mahindra Bolero pickup vehicle and the deceased did not possess valid permit and F.C., at the time of accident. To substantiate the said details, on the 2nd respondent side, Legal Officer of Tata AAG General Insurance Co. Ltd., Sarath Kumar has been examined as RW1. Through him, the copy of Insurance Policy of Mahindra pickup vehicle was marked as as Ex.R1, Copy of Motor Vehicle Inspector report of Mahindra Pickup vehicle bearing Reg.No.KA-08-A-1826 & Splendor bike bearing Reg.No.TN-24-AQ-3233 is Ex.R2. Copy of the permit of Mahindra pickup vehicle bearing Reg.No.KA-08-A-1826 is Ex.R3. In this regard, the Tribunal has observed Ex.R2 - MVI report of the vehicle of the deceased, the deceased had driven the Splendor motor cycle without Registration Certificate, Driving Licence and Insurance Policy and the Tribunal has fixed 20% contributory negligence upon the deceased.

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12. There is no clear evidence as to the fact that the deceased was negligent while driving his two wheeler(motor cycle). However, the fact remains that as per Ex.R2 Motor Vehicle Inspector's report of the motor cycle which is driven by the deceased, as a owner of the two wheeler, he had no insurance policy, no R.C.Book and no driving licence.

13. In the given circumstances, by relying upon the evidence of RW1, this Court deems fit to fix the contributory negligence at 10%. As regards other heads, the amount awarded by the Tribunal appears to be reasonable and acceptable and hence it does not warrant any interference by this Court. Therefore, the amounts awarded as mentioned supra, is reworked and tabulated below:-

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Dependency	Rs.24,19,200/-	Rs.30,24,000/-	Enhanced
2	For Loss of Estate	Rs. 16,500/-	Rs. 16,500/-	Confirmed
3	For Funeral Expenses	Rs. 16,500/-	Rs. 16,500/-	Confirmed
4	For Loss of Consortium	Rs. 2,20,000/-	Rs. 2,20,000/-	Confirmed
	Total	Rs.26,72,200/-	Rs.32,77,000/-	
	Less 20% contributory negligence	Rs.21,37,760/-		
	Less 15% contributory negligence		Rs.27,85,450/-	



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14. Thus, the compensation awarded by the Tribunal is enhanced from Rs.21,37,760/- to **Rs.27,85,450/-** which would carry interest at the rate of 7.5% per annum from the date of petition.

15. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.21,37,760/- to **Rs.27,85,450/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., **Rs.27,85,450/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition **(excluding the period of default, if any)** to the credit of M.C.O.P.No.827 of 2022 on the file of the Motor Accident Claims Tribunal / Special District Court, Krishnagiri, within a period of eight weeks from the date of receipt of a copy of this Judgment and then recover the same from the 1st respondent.

(iv) On such deposit being made, the 1st appellant/wife of the deceased Devendhiran is entitled to receive Rs.10,85,450/- and the appellants 2 and 3 / Minor Children of the deceased Devendhiran are entitled to receive Rs.7,00,000/- each and appellants 4 and 5 are entitled

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to receive Rs.1,50,000/- each. The share of the minors shall be deposited in any one of the nationalized bank till they attain majority and the 1st appellant, mother of the minors shall be permitted to withdraw the interest from the share amount of minors once in six months after adjusting the amounts, if any already withdrawn, by filing relevant application before the Tribunal.

(v) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

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Index : Yes/No
Speaking / Non-speaking order
ssn



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- To:
1. The Motor Accident Claims Tribunal,
Special District Court, Krishnagiri.
 2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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R.KALAIMATHI, J.,

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