



WEB COPY



C.M.A.No.3236 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2026

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.3236 of 2025

1.Amudhavalli
2.Sathishkumar
3.Ranjitha

...Appellants

vs.

1.Mahaboob Basha

2.The Manager
Shriram General Insurance Co. Ltd.,
E-8, DIPIP RIICO Industrial Area, Sitapuram,
Jaipur, Rajasthan 302 022.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 07.09.2023 passed in M.C.O.P.No.30 of 2020 on the file of the Motor Accidents Claims Tribunal/Additional District Court, Hosur.

For Appellants : Mr.S.P.Yuaraj

For R-2 : Smt.R.Sreevidhya



C.M.A.No.3236 of 2025

JUDGMENT

WEB COPY

This Civil Miscellaneous Appeal has been preferred against the award dated 07.09.2023 passed in M.C.O.P.No.30 of 2020 on the file of the Motor Accidents Claims Tribunal/Additional District Court, Hosur. This Civil Miscellaneous Appeal has been preferred by the legal heirs of the deceased Ramu for enhancement of compensation and on the liability issue.

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

3. The claim petition was filed by the legal heirs of the deceased Ramu under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.50,00,000/- from the respondents for the death of Ramu, S/o. Munusami, who died in a road traffic accident that took place on 27.05.2019.

4. The Tribunal, upon consideration of the oral and documentary evidence and after hearing arguments advanced by either side, granted compensation of Rs.11,67,000/- and after deducting 15% towards contributory negligence on the part of the deceased, a sum of



C.M.A.No.3236 of 2025

Rs.9,91,950/- was quantified as compensation by the Tribunal. The amounts awarded by the Tribunal under different heads are given hereunder:

S.No	Head	Amount
1.	For loss of dependency	Rs.10,12,000/-
2.	For Transportation charges	Rs. 5,000/-
3.	For Funeral expenses	Rs. 15,000/-
4.	For loss of estate	Rs. 15,000/-
5.	<i>For loss of consortium</i>	<i>Rs. 1,20,000/-</i>
	<i>Total</i>	<i>Rs.11,67,000/-</i>
	<i>Less 15% towards contributory negligence</i>	<i>(-) Rs. 1,75,050/-</i>
	<i>Net compensation</i>	<i>Rs. 9,91,950/-</i>

5. The learned counsel for the appellants/claimants would vehemently contend that the deceased was working as a Security guard and in this regard, his employer/P.W.3 was examined and salary certificates were also marked as P.W.18 to P.W.22. The Tribunal has taken the income of the deceased at Rs.10,000/-, which is very less. The next argument advanced by the learned counsel for the appellants is that the deceased was a pedestrian who met with an accident and contributory



negligence upon the deceased was fixed at 15%, which is not correct and seeks to set aside the same.

6. *Per contra*, the learned counsel for the second respondent/Insurance Company would strenuously argue that in the given circumstances, the amounts awarded under different heads by the Tribunal appear to be reasonable and prays to confirm the same.

7. The manner in which the accident took place is not in dispute. It has come on record through the evidence of P.W.1 that the deceased was working as a Security in a private company and was earning a sum of Rs.2,50,000/- p.a. The Security Manager of the employer of the deceased was examined as P.W.3. It is the evidence of P.W.3 that the deceased was drawing a salary of Rs.12,600/- p.m in the year 2019. The salary slips for the month of December 2018 to April 2019 are Exs.P18 to P22. The gross salary drawn by the deceased was Rs.12,600/- as per Ex.P19. Therefore, this Court deems it fit to fix monthly salary of the deceased at Rs.12,000/- p.m. The Hon'ble Apex Court has standardized the details of future prospects to be added with income while computing loss of dependency. As per Ex.P2/Postmortem Certificate, age of the deceased is taken as 52 years at the relevant point time. For the age group of persons between 50-60, 10% has to be added as future prospects while computing loss of



C.M.A.No.3236 of 2025

dependency. As regards other details, there is no dispute. For computation of loss of dependency, the following formula emerges:

$$\text{Rs.12,000/-} + 10\% - \frac{1}{3} \times 12 \times 11 \text{ m} = \text{Rs.11,61,600/-}$$

8. It is the evidence of ocular witness P.W.2 that the deceased was standing on the roadside to cross the highway and a lorry, being driven in a rash and negligent manner, dashed against him. During cross-examination of P.W.2, when a suggestion was posed to him that the deceased was crossing the road at the time of accident, he answered in negative. Furthermore, P.W.2 would depose that the deceased had crossed the service road and was waiting to cross the highway. It is pertinent to note that neither the driver of the first respondent nor any ocular witness was examined with regard to this aspect. The Tribunal has observed that the claimants have not established that there was a provision for crossing the highway at that point. FIR reads that the deceased was waiting to cross the highway and P.W.2 has not stated that while the deceased was crossing the road, the accident occurred.

9. Law is well settled that FIR is not a substantial evidence to rely upon. It can only be used for the purpose of corroboration and contradiction. When there is no clear evidence against the deceased to the effect that while he was crossing the road, the accident occurred,



C.M.A.No.3236 of 2025

attributing negligence upon the deceased by the Tribunal cannot be said to be acceptable and therefore, contributory negligence attributed to the deceased to the tune of 15% stands set aside. As regards amounts awarded by the Tribunal under the other heads appear to be reasonable and acceptable and it does not warrant any interference by this Court. The amounts awarded by this Court, as mentioned supra, are reworked and tabulated hereunder:

S. 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.10,12,000/-	Rs.11,61,600/-	enhanced
2	For Transportation charges	Rs. 5,000/-	Rs. 5,000/-	confirmed
3	For Funeral expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
4	For loss of estate	Rs. 15,000/-	Rs. 15,000/-	confirmed
	For loss of consortium	Rs. 1,20,000/-	Rs. 1,20,000/-	confirmed
	Total	Rs.11,67,000/-	Rs.13,26,600/-	
	Less 15% towards contributory negligence	Rs. 1,75,050/-		
	Net compensation	Rs. 9,91,950/-	Rs.13,16,600/-	enhanced by Rs.3,24,650/-



C.M.A.No.3236 of 2025

WEB COPY

10. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.9,91,950/- to Rs.13,16,600/-.

(iii) The second respondent/Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.13,16,600/- (less the amount already deposited, if any) along with interest at 7.5% p.a. from the date of filings of the claim petition till the date of realisation to the credit of M.C.O.P.No.30 of 2020 on the file of the Motor Accidents Claims Tribunal/Additional District Court, Hosur, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellants are permitted to withdraw their share award amount, as apportioned by the Tribunal, with interest, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(v) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required.

Page No.7/9



C.M.A.No.3236 of 2025

WEB COPY

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

22.01.2026

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
apd

To

- 1.The Judge,
Motor Accidents Claims Tribunal/Additional District Court,
Hosur.
2. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



C.M.A.No.3236 of 2025

R.KALAIMATHI, J.

apd

C.M.A.No.3236 of 2025

22.01.2026