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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 29-10-2026**

CORAM

**THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

**CMA No. 2444 of 2024**

*CNR: {HCMA011398062024}*

Sunderaj @ Gnanasundararaj (Died)

1. Gnanaselvi
2. G.Shyam Bennet
3. G.Loyd Benny

..Appellant(s)

Vs

1. B.K.Mohan
2. M/s.United India Insurance Company Limited,
   No. 196, 2nd Cross, Vidya Nagar,
   Opp. C.K.F Co,
   Hosur Road, Bangalore -560 099.

..Respondent(s)

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.03.2024 made in M.C.O.P.No.930 of 2019 on the file of the Motor Vehicle Accident Claims Tribunal, Special Sub Judge No.1, Salem.

For Appellant(s): Mr.S.P.Yuaraj

For Respondent(s): R1 – Dispensed with
Mr.J.Chandran for R2



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**J U D G M E N T**

The unsuccessful claimants/appellants have preferred this Civil Miscellaneous Appeal seeking enhancement of compensation awarded by the Motor Vehicle Accident Claims Tribunal, Special Sub Court No.1, Salem in M.C.O.P.No.930 of 2019, vide award dated 27.03.2024.

2. Originally, the claim petition has been filed under Section 166 of the Motor Vehicles Act by one Sunderaj @ Gnanasundararaj, who sustained injuries in the road accident on 07.01.2019. Pending the claim petition, the said Sunderaj @ Gnanasundara Raj died on 01.02.2023 and his legal representatives were impleaded as claimants in the claim petition.

3. According to the appellants, on 07.01.2019 at about 04.30 p.m., when the original claimant was walking on the extreme left side of the old madras road at K.R.Puram fly over bridge road at Bangalore City, an Apache two-wheeler bearing Reg.No.KA 05 JU 4288 came in a rash and negligent manner and hit against the original claimant, due to which, he fell down and sustained injury over forehead and perito-oceiptal region, head injury and multiple grievous injuries all over the body. He was immediately taken to Sathya Sai Orthopaedic and Multi-Speciality Hospital at Bangalore and was admitted as in-patient till 15.01.2019 and then shifted to Neuro Foundation, Salem on



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16.01.2019 and discharged on 31.01.2019. Thereafter, he was taken to SIIMS Chellam Hospital, Salem and was admitted on 03.02.2019 and then shifted to Velammal Hospital, Madurai, for better treatment and was admitted there as in-patient. Inspite of continuous treatment given, he succumbed to injuries on 01.02.2023. According to the claimants, the deceased was aged about 59 years at the time of accident and he was working as Supervisor in Granite Company at Omalur and earning a sum of Rs.20,000/- per month. The second claimant is the wife of the deceased and the claimants 3 and 4 are the sons of the deceased. The first respondent is the owner-cum-rider of the motorcycle and the second respondent is the insurer of the motorcycle.

4. The first respondent was set *ex-parte* before the Tribunal.

5. The second respondent/Insurance Company has filed a counter statement denying the manner of the accident and stated that the deceased was aged about 65 years and considerably lost his hearing capacity and the alleged place of occurrence is the highly sensitive traffic zone of the city and also the time of occurrence was the peak hour traffic time. In such a dangerous place, the deceased attempted to cross the main road without watching the oncoming vehicles on both sides. The rider of the motorcycle drove the vehicle in a proper manner and on seeing the evasive attempt of the deceased, the rider of the motorcycle blowed horn to caution him, but all his efforts failed in vain.


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Therefore, the alleged accident took place on account of negligence act of the deceased.

6. Before the Tribunal, on behalf of the claimants, the second claimant herself examined as P.W.1 and one Ramakrishnan, Doctor, was examined as P.W.2 and Ex.P1 to Ex.P22 were marked. On the side of the second respondent, no witness was examined and Ex.R1 was marked. Ex.C1/Disability Certificate was marked as Court document.

7. On appreciation of evidence adduced on either side, the Tribunal found that the accident occurred due to rash and negligent act of the rider of the offending vehicle/first respondent. With regard to the quantum of compensation, the Tribunal, in the absence of proof for continuous treatment taken by the original claimant and considering the fact that there is no evidence that original claimant died due to the injuries sustained in the road accident, held that the claimants are entitled to get compensation only under the head of medical expenses, transportation expenses, extra-nourishment and attender charges and accordingly, the following compensation was awarded by the Tribunal under various heads:-

| Sl.No. | Heads | Amount |
|---|---|---|
| 1. | Medical expenses | Rs.13,18,571/- |
| 2. | Transportation expenses, Extra- | Rs.20,000/- |



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| | | |
|---|---|---|
| | nourishment and attender charges | |
| | Total | Rs.13,38,571/- |

8. Aggrieved over the same, the claimants have preferred this Civil Miscellaneous Appeal seeking enhancement of compensation awarded by the Tribunal.

9. The learned counsel appearing for the appellants/claimants would submit that the Tribunal failed to consider that the deceased was aged about 59 years at the time of accident and due to the accident, he sustained injury over forehead and parieto-occipital region and multiple grievous injuries all over his body which is not tolerable to him and the deceased died solely due to the accident. Although the medical report indicated that the deceased had pre-existing medical conditions, these were not causative of the death. Following the accident, he did not recover from the severe injury sustained. The Medical Board assessed 100% permanent disability for the loss of earning capacity. Due to his age of 59 years and 100% disability compounded by personal medical issues such as Type-2 diabetes and hypertension, he was unable to recover from the injury. The Tribunal erroneously held that the deceased died four years after the accident due to personal health problems. Therefore, the Tribunal ought to have awarded compensation for the loss of earning capacity as 100% or ought to have applied multiplier method to the claimants. He has relied upon the



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judgment of the Hon'ble Supreme Court of India in the case of ***Dhannalal @ Dhanraj (Dead) through LRS vs. Nasir Khan and others*** reported in ***CDJ 2025 SC 1476*** to show that the right to claim compensation for the injuries caused in a motor vehicle accident hence survives on the legal representatives of the injured even if the injured dies in the course of the proceedings for reasons not relatable to or having any nexus with the injuries sustained.

10. The learned counsel appearing for the second respondent/Insurance Company would submit that on appreciation of evidence adduced on either side, the Tribunal has rightly concluded that the claimants have failed to prove that the original claimant has taken continuous treatment till the date of his death. Though the claimants have stated that the deceased died due to the injuries sustained in the road accident, no additional evidence has been let in before the Tribunal. By applying the principle of *Actio personalis moritur-cum-personna*, the claimants are only entitled to the compensation with regard to the actual medical expenses incurred by them during the period of hospitalisation, extra-nourishment, transportation charges, attender charges and hence, the Tribunal has rightly awarded the compensation under the aforesaid heads. He would further submit that the claimants are not entitled to get the compensation under the head of loss of permanent disability. To strengthen his contention, he has relied upon the judgment of this Court in the case of ***HDFC ERGO General Insurance Company Limited vs. Sugasini (died) and others*** reported in ***2023***


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***(1) TNMAC 375(DB),*** to show that in the case where the claimants have not established that the death was due to the accident occurred, they are not entitled to get compensation under the head of permanent disability for the injuries sustained by the deceased and the claimants are entitled to get compensation only under the head of medical expenses, transportation expenses, extra-nourishment and attender charges.

11. This Court considered the submissions made on either side and perused the materials available on record.

12. It is seen from the records that the original claimant, namely, Sunderaj @ Gnanasundara Raj has filed the claim petition under Section 166 of the Motor Vehicles Act on 04.03.2019 seeking compensation for the injuries sustained in the road accident on 07.01.2019, however, he died on 01.02.2023 and hence, his legal heirs were impleaded.

13. According to the appellants, on 07.01.2019 at about 4.30 p.m., when the deceased was walking on the extreme left side of the old madras road at K.R.Puram Fly over bridge road at Bangalore City, the Apache two-wheeler bearing Reg.No.KA 05 JU 4288 came in a rash and negligent manner and hit against the original claimant, due to which, he sustained multiple grievous injuries all over the body. He was immediately taken to Sathya Sai Orthopaedic



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and Multi-Speciality Hospital at Bangalore and was admitted as in-patient till 15.01.2019 and then shifted to Neuro Foundation Salem on 16.01.2019 and discharged on 31.01.2019. Thereafter, he was taken to SIIMS Chellam Hospital, Salem and was admitted on 03.02.2019 and then shifted to Velammal Hospital, Madurai, for better treatment and was admitted there as in-patient. Inspite of continuous treatment given, he succumbed to injuries on 01.02.2023.

14. It is relevant to note that the deceased was referred to the Medical Board and the Medical Board has assessed the Disability and issued the Disability Certificate which was marked as Ex.C1. A perusal of Ex.C1 shows that the deceased was diagnosed with TBI-Conservative management pubic diastasis-conservative, present clinical features: Pt conscious, not responding elevantly to simuli spastic quadriparesis. The percentage of disability was mentioned as 100% of permanent disability. As per the ratio laid down by this Court in the case of ***Manoharan (Late) and other vs. The Managing Director, Tamil Nadu State Transport Corporation, Dharmapuri,*** reported in ***2010 (2) TNMAC 243,*** the Tribunal concluded that the claimants are entitled to get the actual expenses incurred by them during the period of hospitalisation, transportation expenses, extra-nourishment and attender charges. As per Ex.P3/discharge summary issued by Sathya Sai Hospital, the deceased has taken treatment as in-patient from 07.01.2019 to 15.01.2019 and as per Ex.P4/Discharge summary issued by Neuro Foundation, the deceased was


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admitted on 16.01.2019 and discharged on 31.01.2019. As per Ex.P5/Discharge summary issued by Sims Chellum Hospital, the deceased was admitted on 03.02.2019 and was discharged on 18.02.2019. As per Ex.P6/Discharge summary issued by Vellammal Hospital, Madurai, the deceased was admitted as in-patient on 18.02.2019 and was discharged on 26.03.2019 and it was mentioned in the column of 'past history' of the patient that the deceased has taken treatment in outside Private hospital for CVA with left hemiplegia, fracture of left superior and inferior pubic rami and undisplaced fracture of left posterior ilaic bone history of bedridden from 07.01.2019 to 18.02.2019 (treated in many hospitals) and history of TIA on December 1st week (on irregular treatment). It has also been mentioned that after observation, decannulation was done on 15.03.2019 and General physician opinion was obtained for diabetic control and adviced insulin. Post procedure period was uneventful, hence he was discharged with certain advices such as to follow the diet with low fat and low salt, and physical activity should be moderated and he was also advised to take medication prescribed by the Doctors and to continue the medications till review and suggested to come for review after one month at Speciality Neurology OPD.

15. A perusal of Ex.P7/Discharge summary issued by the Livewell Institute of Rehabilitation Medicine, Poovanthi, Sivagangai District, shows that the deceased was admitted on 26.03.2019 and was discharged on 28.04.2019


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and that at the time of admission, he was not fully conscious, crowsy, not oriented, not responded to oral commands and no speech. It has also been mentioned that physically he was not able to turn to any side and had a two diameter big pressure sore 1 degree in the upper gluteal region and that since patient developed complication of bleeding through Anus, patient was referred to Velammal Hospitals, Madurai, for further management. A perusal of Ex.P9/Discharge summary issued by CMC Hospital, Vellore, shows that the deceased was admitted on 06.05.2019 and was discharged on 14.06.2019 with recommendations to continue the medications prescribed therein.

16. It is pertinent to note here that the claimants have not let in evidence to show that the original claimant/deceased had taken continuous treatment till his death. In such circumstances, the claimants are only entitled to get compensation under the head of medical expenses, transport, extra-nourishment and attender charges. Upon considering the medical expenses incurred by the claimants, the Tribunal has rightly awarded a sum of Rs.13,18,571/- under the head of medical expenses which does not require any interference by this Court. However, the Tribunal has awarded only a sum of Rs.20,000/- under the head of transport, extra-nourishment and attender charges which appears to be meager. Considering the fact that the Medical Board has assessed the disability of the deceased as 100% and considering the number of days the deceased has taken treatment as in-patient in various hospitals, this Court is inclined to grant


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compensation separately under the heads of transportation expenses, extra-nourishment and attender charges. Therefore, a sum of Rs.15,000/- is awarded under the head of transportation expenses, a sum of Rs.15,000/- is awarded under the head of extra-nourishment and a sum of Rs.20,000/- is awarded under the head of attender charges. Accordingly, the compensation awarded by the Tribunal is modified as under:

| ***S.No*** | ***Head of Compensation*** | ***Amount awarded by this Court (Rs)*** |
|---|---|---|
| 1. | Medical Expenses | Rs.13,18,571/- |
| 2. | Transportation expenses | Rs.15,000/- |
| 3. | Extra-nourishment | Rs.15,000/- |
| 4. | Attender charges | Rs.20,000/- |
| | **Total** | **Rs.13,68,571/-** |

17. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.13,38,571/- is hereby enhanced to **Rs.13,68,571/-** together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of


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six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.930 of 2019 on the file of the Motor Vehicle Accident Claims Tribunal, Special Sub Court No.1, Salem. On such deposit, the appellants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any already withdrawn, as per the apportionment fixed by the Tribunal by making proper application before the Tribunal. However, it is made clear that the appellants are not entitled for interest for the period of delay of 29 days as was ordered by this Court in C.M.P.No.17474 of 2024 vide order dated 22.08.2024. The appellants are directed to pay necessary Court fee, if any, on the enhanced compensation. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The manner and mode of disbursement of compensation shall be as per the order of the Tribunal. There shall be no order as to costs.

**29-10-2026**

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1.The Motor Vehicle Accident Claims Tribunal,
Special Sub Judge No.1, Salem.

2. The Section Officer,
V.R. Section,
High Court,
Chennai.



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**M.JOTHIRAMAN, J.**

ssb

**CMA No. 2444 of 2024**

**29-10-2026**



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