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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2026

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THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.M.A.No.2019 of 2025

&

C.M.P.No.17735 of 2025

National Insurance Company Ltd.,
No.66, Greaves Road
Chennai – 02

... Appellant

Vs

1. B.Dhivya
2. Minor Nivithaa Sree
3. Minor B.Harshan
4. Tumma Chinnappa Reddy
5. Elumalai

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment passed in MACT OP No.01 of 2019 dated 21.12.2024 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.

For Appellant : Ms.N.B.Surekha

For Respondents : Mr.R.Karunakaran
for Mr.D.Velu for R1 to R3
R4- No Appearance



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R5- Notice unserved (insufficient address)

JUDGMENT

(Judgment of the Court was delivered by V. LAKSHMINARAYANAN., J.)

The appellant is the Insurance Company, which assails the order of the learned Chief Court of Small Causes, Chennai dated 21.12.2024 in M.A.C.T.O.P.No.1 of 2019.

2. By the said order, the learned Tribunal had granted a compensation of Rs.45,71,000/- together with interest at the rate of 7.5% per annum from the date of filing the claim petition till the date of realization. It also directed that the appellant to satisfy the decree in its entirety at the first instance and recover 50% of the amount from the third respondent.

3. The facts leading to the claim petition are as follows:

One Bhoopalan was riding his two wheeler bearing Registration No.TN 25 R 8514. He was doing so at around 06.00pm on 30.09.2018. At that time, another two wheeler bearing Registration No.TN 12 H 2740 came in the wrong direction and dashed against the said Bhoopalan's motorcycle. On account of the accident, both the motorcyclists fell down. A Maruti Dzire car bearing Registration No.AP 07 DZ 2007, dashed against the deceased Bhoopalan. On account of this accident, he sustained head injuries and expired at the spot itself.



4. The claimants who are the wife, minor daughter and minor son of the deceased Bhoopalan presented the claim petition seeking a compensation of Rs.1 Crore. They pleaded that Bhoopalan was working as a Supervisor in M/s.ATH Leder Fabrik and was drawing a monthly salary of Rs.32,409/-. They contended that as the first respondent was the owner of the car, the second respondent was the insurer of that vehicle and third respondent, being the owner of the two wheeler bearing Registration No.TN12 H 2740 (the vehicle which came in the wrong direction) are jointly and severally liable to pay the compensation.

5. The learned Tribunal issued summons to all the respondents.

6. The owner of the car and the owner of the motorcycle remained *ex parte*. The claim petition was contested only by the second respondent. After the general denials, the second respondent pleaded that the accident took place on account of the negligent riding of the vehicle by one Santhosh, of which the third respondent was the owner.

7. Considering the pleadings raised by both parties, the learned Tribunal framed the following issues:

- i) *Whether the accident had occurred due to the rash and negligent driving the 1st and 3rd respondent's vehicle?*
- ii) *Whether the respondents are liable to pay compensation?*
- iii) *Whether the petitioners are entitled for compensation? If so, what is the quantum of compensation?*



8. On the side of the claimants, three witnesses were examined. The first witness being the first claimant, wife of the deceased, PW2 was an eye-witness to the incident and PW3 was an Officer of the Company in which the deceased Bhoopalan was employed. They filed Exs.P1 to P21. On the side of the contesting respondent, no documentary or oral evidence was let in.

9. The Tribunal, on the first issue came to a conclusion that the composite negligence has to be divided 50:50 between the person who drove the motorcycle and the person who was driving the car. Having come to such conclusion, the Tribunal directed the appellant/second respondent to pay the entire amount and recover 50% from the third respondent. On the second and third issues, the Tribunal concluded that the claimants are entitled to a sum of Rs.45,71,000/-.

10. Aggrieved by the said award, the present appeal at the instance of the Insurance Company.

11. We heard Ms.N.B.Surekha for the appellant and Mr.R.Karunakaran representing Mr.D.Velu for the claimants.

12. First, we will deal with the issue of extent of contributory negligence. PW2-Raja, who was an eye witness to the incident., in his chief affidavit, has specifically stated that the vehicle, which was being ridden by Mr.Bhoopalan viz., two wheeler bearing Registration No.TN25 R 8514 was proceeding in proper manner. At that time, the vehicle which was subsequently registered as TN12 H 2740 came on the wrong side and dashed against Bhoopalan's vehicle.



On account of the said accident, both Bhoopalan and the rider of the other two wheeler fell down, but Bhoopalan did not die on account of this accident. After this accident between the 2 two wheelers, Bhoopalan got up and was checking as to whether he had suffered any injuries, it was at that time, the car bearing Registration No. AP07 DZ 2007, which according to the eye witness, was being driven at a very high speed and in the same direction dashed against Bhoopalan from the rear side and resulting in his death.

13.This shows that, had the vehicle of the first respondent being driven in a proper manner and maintaining a reasonable distance, the accident of Bhoopalan and Santhosh with the first respondent's vehicle would not have occurred at all. Perhaps the two motorcyclists, after abusing each other, would have gone to their separate ways. Unfortunately, since the first respondent's vehicle came at a very high speed and dashed against Bhoopalan, he had succumbed to injuries on the very spot. Hence, we are of the view that fixation of 50:50 liability by the learned Tribunal is erroneous. Major portion of the liability ought to have been fixed on the first respondent and only to a limited extent, the liability should have been fixed on the third respondent. Hence, we are of the view that portion of composite negligence should be modified from 50:50 to 90:10 i.e., 90% liability on the first respondent and consequently, on the appellant Insurance Company and 10% on the third respondent.

14. Now, we turn to the next issue regarding the income of the deceased Bhoopalan. The claimants have examined PW3, who is the Personal Officer of



the employer of the deceased Bhoopalan. PW3 has marked the series of salary slips that were issued to Bhoopalan by the employer under Ex.P20 (series).

During the course of cross-examination of PW3, the Insurance Company has elicited from him that Bhoopalan was a permanent employee and that in addition to his regular salary, he was also given a bonus of 20% month on month. Ex.P20 shows Bhoopalan was earning a sum of Rs.32,409/- as gross income and post deduction of Rs.1,820/-, he was paid the remaining amount. Bhoopalan, at the time of his death was aged about 43 years. The Tribunal has taken multiplier of 14 and also reduced 1/3rd towards the personal expenses of Bhoopalan and has fixed the liability at Rs.44,11,456/-.

15. It is the plea of Ms.Surekha that Income Tax had not been deducted by the learned Tribunal. We are not in agreement with her for the simple reason, a perusal of Paragraph No.12 of the award shows that the learned Tribunal had taken into consideration the applicable Income Tax and had also calculated the same and thereafter arrived at the conclusion that the amount payable is Rs.4,72,650/- per year.

16. At this juncture, we have to note that the Tribunal had taken a conservative view and had added only 25% towards future prospects. In ***National Insurance Company Limited Vs. Pranay Sethi, [(2017) 16 SCC 680]***, a Constitution Bench of the Supreme Court in Paragraph No.61 had pointed out that if the deceased is aged between 40-50, then the Tribunal is entitled to take 30% of the amount as future prospects. Since the Tribunal has not taken 30% as



future prospects as directed by the Constitution Bench, and has fixed only 25%, we necessary have to be apply the judgment of Supreme Court in **Pranay Sethi** (cited supra) and enhance the future prospects from 25% to 30%.

The modified compensation is as follows:

Annual Income of the deceased (32,409 x 12)	= Rs.3,88,908/-
Add: 30% future prospects	1,16,672/-

	5,05,580
Less:	
Income Tax Payable + Cess @ 4%	
(Rs.11,807 + Rs.472)	12,279/-
Professional Tax	1,200/-

Annual Income after Tax	4,92,101/-

Towards Loss of Income / Dependency	45,92,943/-
Towards Loss of Estate	15,000/-
Towards Loss of Consortium	1,20,000/-
Rs.40,000 x 3	
Towards Funeral Expenses	15,000/-
Towards Transportation Charges including damages to Personal belongings	10,000/-

Compensation Payable	47,52,942/-

17. The third respondent is not covered by the Insurance of the appellant and hence, calling upon the insurer of the first respondent to pay and thereafter recover from the third respondent is not in accordance with law. Hence, the



direction by the learned Tribunal calling upon the Insurance Company to pay at the first instance and recover the amount from the third respondent stands set

aside. The insurance company is directed to deposit 90% of the amount of Rs.47,52,942/-, i.e., Rs.42,77,648.00 together with proportionate interest and cost, less the amount already deposited, within a period of four weeks from the date of receipt of a copy of this order.

With the above modifications, this Civil Miscellaneous Appeal stands disposed of. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

(N.S.K.,J.) (V.L.N.,J.)
20.02.2026

Index: Yes/No

Neutral Citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Chief Small Causes Court, Chennai



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