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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 3661 of 2026

CNR:{HCMA011632952026}

Case QR

1. G. Shanthi
   Rest.at Old No.3/2 New No.17, 7th Trut Cross Street, Raja Annamalaipuram,
   Chennai 600 028.

2. R.Gopi
   Rest.at Old No.3/2 New No.17,
   7th Trut Cross Street,
   Raja Annamalaipuram,
   Chennai 600 028.

..Appellant(s)

Vs

1. M/s.DYM Logistics
   C and F Association Room,
   Salt Quarters Choolai,
   Chennai 600 112.

2. ICICI Lombard General Insurance Co.Ltd.,
   Arihant Plaza,
   1st Floor, No.84 and 85 Waltax Road,
   Chennai 600 003.

..Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to allow appeal and to enhance the amount awarded in MCOP.No.778 of 2024 in order dated 23.10.2025 on the file of the Motor Accident Claims Tribunal Chennai, II Special Judge, Small Causes Court Chennai.

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For Appellant(s): U.Chithambaram
For Respondent(s): M/s.P.Suresh Srinivasan for R2

JUDGMENT

Unsuccessful claimants have preferred this Civil Miscellaneous Appeal, seeking enhancement of compensation, vide award dated 23.10.2025 in MCOP.No.778 of 2024 on the file of the Motor Accidents Claims Tribunal, Chennai, II Special Judge, Small Causes Court, Chennai.

2. The Claim Petition has been filed under Section 166 of the Motor Vehicles Act, 1988, by the dependents of the deceased Suryaprakash. The claimants are the parents of the deceased. According to the claimants, on 03.12.2023 at about 4.30 p.m., while the deceased was riding his motorcycle bearing Reg.No.TN 85 A 4445 from Vandalur to Minjur 400 Feet Outer Ring Road, in front of Kolappanchery bus stop from South to North direction, at that time the lorry bearing Reg.No.TN 04 AT 8069 was standing in same road and same direction in negligent manner endangering public safety without any signal. The deceased who was riding the motorcycle hit the lorry from behind. Due to the accident, the deceased sustained fatal injuries and died on the spot. The accident occurred due to the rash and negligent manner of the lorry stationed on the road without any signal. The 1st respondent, being the owner of the lorry and the 2nd respondent, being the insurer of the same, both are liable to pay compensation to the claimant.

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3. The 1st respondent / owner of the lorry was called absent and set *exparte* before the Tribunal. The 2nd respondent / Insurance Company has filed counter statement wherein it has been stated that the entire fault was on the part of the deceased only. The rider of the motorcycle had dashed the rear side of the stationed lorry in broad day light and therefore, no fault can be attributed to the driver of the lorry. The deceased was not having valid driving licence to ride a motorcycle at the time of accident and he did not wore helmet, as he died due to the injury sustained in the head.

4. Before the Tribunal, on behalf of the claimant, the 1st claimant herself was examined as PW1, one eye witness was examined as PW2 and Exs.P1 to P26 were marked. On the side of the respondent, RW1 was examined and Exs.R1 to R3 were marked.

5. Upon appreciation of evidence adduced on either side, the Tribunal finds that the accident had occurred due to the rash and negligent manner of the lorry parked on the road side without any precaution signals. The Tribunal also finds that the deceased was not wearing helmet and therefore, attributed 15% contributory negligence on the deceased. The Tribunal, considering Ex.P3-Postmortem Certificate, Ex.P4-Death Certificate, Ex.P5- Death Report and Ex.R3-Aadhar Card of the deceased, fixed the age of the deceased as 18 years at

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the time of accident. In the absence of proof of monthly income, the Tribunal fixed Rs.17,500/- as the monthly notional income of the deceased. By adding 40% towards Future Prospects and since the deceased was a bachelor at the time of accident, 50% of the income was deducted towards personal and living expenses of the deceased and applied the Multiplier "18" considering the age of the deceased, the Tribunal has awarded a sum of Rs.26,46,000/- [(17500 + 40%) = 24500 x 12 x 18 x 50%] towards Loss of Dependency. The Tribunal has also awarded compensation under other heads as tabulated hereunder:

Heads of Compensation	**Amount awarded by the Tribunal (Rs.)**
Loss of Dependency [(17500 + 40%) = 24500 x 12 x 18 x 50%	26,46,000
Loss of Consortium [Rs.44,000 x 2]	88,000
Loss of Estate	16,500
Funeral Expenses	16,500
TOTAL	**27,67,000**
Less: 15% Contributory Negligence	4,15,050
Compensation Payable **Rounded off**	**23,51,950** **23,52,000**

Being aggrieved over the same, the claimants have preferred the present Appeal seeking enhancement of compensation.

6. The learned counsel appearing for the appellants / claimants would submit that the Tribunal erred in fixing the notional monthly income of

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the deceased as Rs.17,500/- per month as against the income of Rs.18,000/-. The Tribunal erred in attributing 15% contributory negligence on the deceased merely on the ground that he was not wearing a helmet at the time of accident. The primary cause of the accident was the rash and negligent act of the driver of the offending lorry in parking the vehicle on the carriageway, without adequate warning signals or safety precautions and therefore, the Tribunal ought not to have attributed 15% negligence on the part of the deceased.

7. *Per contra*, learned counsel appearing for the 2nd respondent / Insurance Company would submit that at the time of accident, the lorry was parked on the road with adequate warning signals, despite the same, the deceased drove the motorcycle in a rash and negligent manner and hit the lorry on the backside and invited the accident. Considering the fact that the deceased sustained injuries on his head, the Tribunal came to the conclusion that if the deceased wore helmet, head injury could have been avoided and fixed 15% contributory negligence on the deceased, which does not require any interference. It is stated in the claim petition that the deceased was earning a sum of Rs.18,000/- per month at the time of accident, working as a Mason and in the absence of proof of monthly income, the Tribunal fixed Rs.17,500/- as the notional monthly income of the deceased, which appears to be proper and reasonable and does not require any interference.

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8. This Court considered the submissions made and also perused the entire materials available on record.

9. According to the claimants, on 03.12.2023 at about 4.30 p.m., while the deceased was riding his motorcycle bearing Reg.No.TN 85 A 4445 from Vandalur to Minjur 400 Feet Outer Ring Road, in front of Kolappanchery bus stop from South to North direction, at that time the lorry bearing Reg.No.TN 04 AT 8069 was stationed in same road and same direction in negligent manner endangering public safety without any signal. The deceased, who was riding the motorcycle, hit the lorry from behind, as a result of which, the deceased sustained fatal injuries and died on the spot. In order to prove the said fact, the claimant has relied upon the evidence of PW2, who is the eye witness to the accident, categorically deposed about the manner of accident. During the course of cross examination of PW2, nothing elicited as against the manner of accident as deposed by him.

10. According to the 2nd respondent / Insurance Company, the accident occurred due to the negligence on the part of the deceased only. The deceased had dashed against the rear side of the stationed lorry in a broad day light and therefore, no fault can be attributed on the driver of the lorry. The deceased was not having valid driving licence at the time of accident and it was also contended that the deceased did not wear helmet at the time of accident, as he

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died due to head injury. In order to prove the above said fact, the 2nd respondent / Insurance Company has examined the Investigator of the Insurance Company as RW1. It is relevant to note that neither the driver of the offending lorry nor any other independent witness was examined to establish the fact that the lorry was stationed on the road with indicative precaution or warning signals. RW1 deposed that the deceased was not having valid and effective driving licence to drive the motorcycle. In order to prove the above said fact that the deceased was not having effective driving licence at the time of accident, the Insurance Company has not chose to examine an official from the concerned Regional Transport Office. In the absence of examination of the official from the concerned RTO, it cannot be said that the deceased was riding the motorcycle without driving licence.

11. It is relevant to note that PW1, in her cross examination, deposed that she does not know whether the deceased wore helmet at the time of accident. If the deceased wore helmet at the time of accident, he could have avoided injuries on his head. In such circumstances, fixing 15% contributory negligence on the part of the deceased for non-wearing helmet at the time of accident and contributed to the accident, is unacceptable one. This Court is of the view that the Tribunal fixing 15% contributory negligence is not proper and this Court is incline to fix 5% contributory negligence on the part of the deceased for non-wearing helmet at the time of accident.

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12. According to the claimants, at the time of accident, the deceased was working as Mason, earning Rs.18,000/- per month. In the absence of proof of monthly income, the Tribunal fixed Rs.17,500/- as notional income of the deceased. It is relevant to note that the accident took place in the year 2023 and the deceased was aged about 18 years and the claimants are parents of the deceased and therefore, this Court is inclined to fix Rs.18,000/- as the monthly notional income of the deceased. By adding 40% towards future prospects by applying the ratio laid down by the Hon'ble Apex Court in ***National Insurance Co., Ltd. V. Pranay Sethi and Others [2017 (2) TNMAC 609],*** deducting 1/2 towards personal living expenses since the deceased died as a Bachelor and by considering the age of the deceased, adopted "18" Multiplier as per the decision of the Hon'ble Apex Court in ***Sarla Verma and Ors. V. Delhi Transport Corporation and Ors. [2009 (2) TNMAC 1],*** the compensation for Loss of Dependency comes to Rs.27,21,600/-[(18,000 + 40%) = 25,200 x 12 x 18 x 50%] The compensation awarded by the Tribunal under other heads appear to be just and reasonable and does not require any interference. Thus, the compensation now determined by this Court is tabulated as hereunder:

Heads of Compensation	**Amount now awarded by this Court (Rs.)**
Loss of Dependency [(18000 + 40%) = 25200 x 12 x 18 x 50%	27,21,600
Loss of Consortium [Rs.44,000 x 2]	88,000
Loss of Estate	16,500
Funeral Expenses	16,500
TOTAL	**28,42,600**

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Less: 5% Contributory Negligence	1,42,130
Compensation Payable	**27,00,470**
Rounded off	**27,00,500**

13. In the result, this Civil Miscellaneous Appeal stands party allowed and the award dated 23.10.2025 in MCOP.No.778 of 2024 on the file of the Motor Accidents Claims Tribunal, Chennai, II Special Judge, Small Causes Court, Chennai is modified to the effect that the claimant is entitled for an enhanced compensation of Rs.27,00,500/- together with interest @ 7.5 % per annum from the date of claim petition till the date of realisation. The 2nd respondent / Insurance Company, being the insurer of the Lorry, is directed to deposit the compensation now determined by this Court, less amount already deposited within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants are entitled to withdraw the same, less amount already withdrawn, on filing appropriate application before the Tribunal and on payment of necessary Court Fee for the enhanced compensation. The claimants are not entitled for any interest on the enhanced compensation for the default period. The manner, mode and disbursement of compensation, shall be as per the order of the Tribunal. No costs.

12-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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M.JOTHIRAMAN J.

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To

1.The Motor Accidents Claims Tribunal,
II Special Judge, Small Causes Court,
Chennai.

2.The Section Officer,
VR Section, High Court, Madras.

CMA No. 3661 of 2026

12-11-2026

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