



WEB COPY

C.M.A.No.3895 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2026

CORAM

THE HONOURABLE MR . JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

C.M.A.No.3895 of 2025

&

C.M.P.No.32900 of 2025

Reliance General Insurance Co. Ltd.,
T.P.Cell, No.6, Reliance House
Haddows Road, Nungambakkam
Chennai – 600 006

... Appellant

Versus

1.P.Malathi
2. Minor Madu Sri
3.Minor Subhasri
4. D.Jebaraj

... Respondents

Civil Miscellaneous Petition filed under Section 173 of Motor Vehicles Act,1988 against the judgment and decree dated 29.02.2024 made in M.C.O.P.No.2210 of 2019 on the file of the Motor Accident Claims Tribunal,Chief Judge, Court of Small Causes,Chennai.

For Petitioner : Ms.R.Sree Vidhya
and Mr.N.Elayaraja



WEB COPY



C.M.A.No.3895 of 2025

JUDGMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

Challenging the quantum of compensation of awarded by the Motor Accident Claims Tribunal, the Insurance Company is before this Court.

2. The brief facts of the case is as follows:

The deceased, who is aged about 28 years, is husband of first claimant and father of claimants 2 and 3. The deceased was working as a JCB Operator and was earning a sum of Rs.25,000/- per month. On 27.01.2019, when the deceased was riding a motorcycle bearing Registration No.TN19-S-4923 from Thirukazhukundram to Manapathy, the offending vehicle bearing Registration No.TN19-A-1690 driven in a rash and negligent manner dashed against the victim's motorcycle due to which the victim sustained multiple grievous injuries and succumbed to the same. In this regard, an FIR has also been registered. The claimants have filed a petition before the Motor Accident Claims Tribunal seeking compensation of Rs.80,00,000/-. The Motor Accident Claims Tribunal, after trial, awarded compensation of Rs.30,16,000/- as compensation with interest at the rate of 7.5% per annum. Aggrieved over the same, the appellant Insurance



C.M.A.No.3895 of 2025

Company is before this Court.

WEB COPY

3. It is the contention of the Insurance Company before the Tribunal that the deceased was not wearing the helmet at the time of accident and hence, he also contributed to the cause of death. It is their further contention that the insured and Insurance Company of the motorcycle have not been added as parties and hence, the petition is liable to be dismissed for non-joinder of necessary parties.

4. On the side of the claimants, Pws 1 to 3 were examined and Exs.P1 to P15 were marked. On the side of the respondents, neither oral evidence nor documentary evidence has been adduced.

5. The trial Court, after considering the oral and documentary evidence, found that the offending vehicle was driven in a rash and negligent manner which resulted in the death of the deceased and fixed the notional monthly income of the deceased at Rs.15,000/- and adopted the multiplier method and added 40% of the income towards future prospects as per the judgment of the Apex Court in *National Insurance Company Limited Vs.*



C.M.A.No.3895 of 2025

Pranay Sethi and Others reported in *2017(2) TNMAC 609 (SC)* and awarded compensation of Rs.30,16,000/-. Challenging the quantum, the appellant Insurance Company is before this Court.

6. The learned counsel appearing for the appellant would submit that the Tribunal has failed to consider the fact that the deceased was not wearing the helmet at the relevant point of time. Therefore, according to learned counsel, 10% of the contributory negligence ought to have been fixed on the deceased.

7. We have perused the entire award as well as the other materials placed before this Court.

8. The manner of accident is not in dispute. PW3 is one of the eye witnesses and his evidence has not been uncontraverted. The evidence of PW3 clearly shows that the deceased was riding carefully and only the offending vehicle came in a rash and negligent manner and dashed against the motorcycle in which the deceased was travelling. As there was no contra evidence produced, considering the contents of the FIR and other materials



C.M.A.No.3895 of 2025

placed before this Court, we are not inclined to interfere with the order of the Tribunal fixing the negligence on the driver of the offending vehicle.

Though it was submitted by the learned counsel for the appellant that the deceased was not wearing helmet at the relevant point of time, it is relevant to note that though wearing the Helmet is mandatory, merely because one has not worn the helmet, in all situation cannot be said that there was contributory negligence and that will not give licence to the offending vehicle to drive the vehicle in a rash and negligent manner and dash against the vehicle in which riders were travelling without helmet. That apart, to fix the contributory negligence, at least there must be evidence on the side of the appellant Insurance Company, but no witness has been examined on the side of the appellant Insurance Company.

9. In such view of the matter, we are of the view that the contention of the learned counsel for appellant that the deceased was not wearing helmet at the time of accident has no force to hold that there is contributory negligence on the part of the deceased.



C.M.A.No.3895 of 2025

10. As far as fixing the notional income is concerned, the deceased

was aged about 28 years at the time of accident and he was a JCB Operator and there was evidence to show that he was earning Rs.25,000/- per month .

It is common sense that the driver of a heavy vehicle would earn more than Rs.500/- per day. Therefore, the notional income fixed by the Tribunal at Rs.15,000/- per month does not warrant any interference. As the deceased was aged about 28 years, the Tribunal has rightly added 40% towards future prospects. We are of the view that the Tribunal has also applied the correct multiplier and awarded compensation of Rs.30,16,000/ which is reasonable and does not warrant any interference.

Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

[N.S.K.,J.] [R.S.V.,J.]
05.01.2026

Index: Yes/No
Neutral Citation: Yes/No
gpa

To
The Motor Accident Claims Tribunal
Chief Judge,
Court of Small Causes, Chennai



WEB COPY



C.M.A.No.3895 of 2025

N.SATHISH KUMAR, J.,
AND

R. SAKTHIVEL, J.,

gpa

C.M.A.No.3895 of 2025

05.01.2026