



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19-02-2026
CORAM

WEB COPY THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

CMA NO. 144 OF 2025 & CROS.OBJ NO. 40 OF 2025
and CMP No. 10215 of 2025 & CMP NO. 1231 OF 2025

CMA No. 144 of 2025

1. Cholamandalam Ms Gen Ins Co Ltd
Legal Department, Shaw Wallace
Building, No. 152, NSC Bose Road,
Thambu Chetty Street, Chennai 1.

Appellant(s)

Vs

1. T.E.Rajendran
2.R.Gunalan
3.R.Sivaranjani
4.Dilli Babu

Respondent(s)

CROS.OBJ No. 40 of 2025

1. T.E.Rajendran
2.R.Gunalan
3.R.Sivaranjani

Appellant(s)

Vs

1. Cholamandalam MS
Gen.Ins.Co.Ltd.,
Legal Department, Shaw Wallace
Building, 2nd Floor, No.152, NSC Bose
Road, Thambu Chetty Street,
Chennai-600 001.

2.M.Dilli Babu

Respondent(s)

PRAYER in CROS.OBJ No. 40 of 2025: Cross Objection filed under Section 173 of Motor Vehicles Act, 1988 against the judgement and decree dated 03-07-2024 made in MCOP.No.1845/2021, on the file of the MACT (Chief Judge, In the Court of Small Causes) Chennai.

PRAYER in CMA No. 144 of 2025: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 03.07.2024 made in MCOP No. 1845 of 2021 Motor Accident Claims Tribunal (Chief Court), Small Causes, Chennai



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CROS.OBJ No. 40 of 2025:

For Appellant(s): Mr.V.Venkatesan

For Respondent: Ms.R.Sree Vidhya

CMA No.144 of 2025:

For Appellant(s): Ms.R.Sree Vidhya

For Respondent: Mr.V.Venkatesan

COMMON JUDGMENT**(Common Judgment delivered by N.Sathish Kumar J.)**

Challenging the award made in MCOP.No.1845 of 2021 on the file of the Motor Accident Claims Tribunal/Small Causes Court, Chennai, civil miscellaneous appeal has been filed. Cross Objection has been filed by the claimants seeking for enhancement of compensation awarded in MCOP.No.1845 of 2021 on the file of the Motor Accident Claims Tribunal/Small Causes Court.

2. Brief facts in filing the appeals are as follows:-

2.a. The deceased aged 50 years was seated as a pillion rider in a motorcycle bearing Reg.No.TN-19-AP-0144 on GST Road from Potheri to Tambaram on 19.12.2020 at about 17.00 hours, at that time, two unknown persons crossed the road from East to West and the rider applied sudden break, due to the impact, the deceased fell on the road and sustained bleeding injury on the head and she died despite treatment on 24.12.2020 at RGGGH. The



deceased was a flower vendor and was earning Rs.20,000/- per month. The first respondent is the owner and the second respondent is the insurer of the motorcycle. The petitioners being the husband, son and daughter have filed the petition claiming compensation.

2.b. It is the contention of the Insurance Company before the Tribunal that the deceased herself fallen from motorcycle and she was not travelling as a pillion rider. Further, contended that the rider of the motorcycle was riding the motorcycle without driving license on the date of accident. Hence, opposed the claim petition. The Tribunal framed the following points for consideration:-

- 1) Whether the accident had occurred due to the rash and negligent riding of the first respondent vehicle?
- 2) Whether the respondents are liable to pay compensation?
- 3) Whether the petitioners are entitled for compensation? If so, what is the quantum of compensation?

2.c. Before the Tribunal, on the side of the claimants, PW1 & PW2 were examined and Exs.P1 to P16 were marked. On the side of the respondents, one Sangeetha Viji, working as Deputy Manager of the second respondent company has been examined as RW1 and Exs.R1 to R5 were marked.



2.d. Based on the material and evidences, the Trial Court awarded the compensation as follows:-

Sl.No.	Heads	Calculation
1	Total loss of dependency	Rs.19,50,000/-
2	Loss of consortium	Rs.1,20,000/-
3	Loss of estate	Rs.15,000/-
4	Funeral expenses	Rs.15,000/-
5	Transportation charges including damages to personal belongings	Rs.10,000/-
Total compensation is fixed at		Rs.21,10,000/-

3. Challenging the award, the Insurance Company has filed the civil miscellaneous appeal and for enhancement compensation, the claimants have filed the Cross Objection.

4. The learned counsel for the Insurance Company submitted that the FIR has been lodged later, whereas, Ex.R1/copy of Accident Register clearly shows that the deceased fell from the two wheeler and there was no mention about that she was seated as pillion rider, hence, it is the contention that the FIR has been given later only for the purpose of claiming the compensation. It is her further contention that enhancement sought by the claimants by way of the instant Cross Objection is not proper, the Trial Court after properly appreciating the evidences has fixed the notional income of Rs.15,000/- and in the event of this



Court accepting the claim of the claimants, the notional income fixed by the trial Court is reasonable. Hence, seeks for dismissal of the cross objection and allowing of the civil miscellaneous appeal.

5. Whereas, the learned counsel for the claimants/cross objectors submitted that the accident took place only in the year 2020, even for the year 2019, a Coordinate Bench of this Court in the case of *Petchiammal and others vs. M.Sathiyamoorthy and another* made in *CMA.No.2636 of 2022* vide judgment dated 17.07.2023 has fixed the notional income at Rs.17,000/-, hence, submitted that the notional income has to be fixed higher other than the one fixed by the Trial Court.

6. In light of the above, now, the following points arise for consideration:

(i) Whether the deceased has not seated as pillion rider at the time of accident?

(ii) Whether the compensation fixed by the Trial Court is reasonable or requires enhancement?

7. The accident is not disputed. The Insurance Company has only disputed the manner of accident. It is the only contention of the Insurance Company that the deceased was not seated as pillion rider, therefore, claimants



are not entitled to the compensation. This Court is of the view that the Trial Court on proper appreciation of oral evidence of RW1 has rightly come to the conclusion that the deceased was a pillion rider in a motorcycle. The rider of the motorcycle applied a sudden brake and the pillion rider fell down, sustained head injury and died. Therefore, the contention now being raised by the Insurance Company at the appellate stage has no legs to stand. It is also not disputed that the comprehensive policy covers the pillion rider.

8. The Trial Court has taken note that the rider was not possessing a valid driving license and has ordered pay and recovery. As far as the quantum is concerned, admittedly, the deceased was aged 50 years, she was a flower vendor. Though the Trial Court has fixed the income as Rs.15,000/- since selling flowers is a routine business and she was aged 50 years and she would have earned more money, therefore, this Court taking note of the fact that the accident had occurred in the year 2020, a Co-ordinate Bench of this Court in the case of *Petchiammal and others vs. M.Sathiyamoorthy and another* made in *CMA.No.2636 of 2022* vide judgment dated 17.07.2023 has fixed the notional income at Rs.17,000/- for the accident that took place in the year 2019, therefore, we are inclined to increase the notional income from Rs.15,000 to Rs.17,000/- and with regard to the Tribunal fixing future prospects at 25%, this Court is of the view that since the deceased age is 50 years, future prospects



should be 10% as per *National Insurance Co Ltd vs. Pranay Sethi and others* reported in (2017(2) TNMAC 609 (SC). In such view of the matter the Tribunal fixing 25% future prospects is set aside and the future prospects is reduced to 10%. With respect to other aspects, the award of the Tribunal is confirmed. Accordingly, award amount is modified as below:-

Sl. No.	Heads	Calculation
1	Total loss of dependency [Monthly Income Rs.18700-6233(1/3)=12467] Rs.12467x12x13(multiplier)	Rs.19,44,850/-
2	Loss of love and affection	Rs.1,20,000/-
3	Loss of estate	Rs.15,000/-
4	Funeral expenses	Rs.15,000/-
5	Transport expenses	Rs.10,000/-
Total compensation is fixed at		Rs.21,04,850/-

9. In fine,

(i) this Civil Miscellaneous Appeal stands dismissed to the extent indicated above and the cross objection is partly allowed to the extent indicated above. Accordingly, the compensation awarded is modified from Rs.21,10,000/- to Rs.21,04,850/-. The rate of interest awarded by the Tribunal remains in tact. No Costs. Consequently, connected miscellaneous petitions are closed.

(ii) the Appellant insurance company is directed to deposit the modified



reduced award amount before the Tribunal, within a period of three weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) On such deposit being made, the claimants are permitted to withdraw their share in the award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) If at all the Appellant Insurance Company had already deposited the awarded compensation amount, after satisfaction of the award, the Tribunal is directed to refund the surplus deposited money taking note of the reduced compensation amount herein, to the Appellant Insurance Company.

(N.SATHISH KUMAR J.)(V.LAKSHMINARAYANAN J.)
19-02-2026

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1. The Chief Judge

8/10



Court of Small Causes/Motor Accident
Claims Tribunal
Chennai

CMA No.144 of 2



2.The Section Officer
VR Section, Madras High Court



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CMA No.144 of 2



**N.SATHISH KUMAR J.
AND
V.LAKSHMINARAYANAN J.**

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**CMA NO. 144 OF 2025
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CROS.OBJ NO. 40 OF
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