IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.01.2026

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.2892 of 2025

1.Rajarathinam
2.Soundarya
3.Gnanasekar ...Appellants

vs.

1.P.K.Pranuvisakan

2. United India Insurance Company Limited
Having its branch office at 14/1-77-B,
Salem Main Road, Puduchampalli,
Raman Nagar Post, Mettur Dam,
Salem District.
...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 02.04.2025 passed in M.C.O.P.No.20 of 2019 on the file of the Motor Accidents Claims Tribunal/Subordinate Court, Pollachi.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondent no.2 : Mr.D.Venkatachalam

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the Award dated 02.04.2025 passed in M.C.O.P.No.20 of 2019 on the file of the Motor Accidents Claims Tribunal/Subordinate Court, Pollachi, for enhancement of compensation.

2. The parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. The claim petition was filed under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.1,25,00,000/- for the death of the deceased, Selvathal, who died in a road traffic accident that took place on 09.11.2018.

4. The Tribunal, upon consideration of the evidence and after hearing arguments advanced by either side, passed an award for a sum of Rs.80,40,000/- with interest at the rate of 7.5% p.a. from the date of petition. The amounts granted under various heads are given hereunder:

S.No	***Head***	***Amount***
1.	For loss of dependency	Rs.79,04,000/-
2.	For loss of consortium	Rs. 40,000/-

	(for 1st appellant)	
3.	For loss of love and affection (for appellants 2 & 3)	Rs. 30,000/-
4.	For funeral expenses	Rs. 15,000/-
5.	For loss of estate	Rs. 15,000/-
6.	For transportation	Rs. 10,000/-
7.	For medical expenses	Rs. 26,000/-

5. The learned counsel for the appellants would vehemently contend that the deceased, who was working as Head Mistress in Panchayat Union Primary School at the age of 48 years, was drawing monthly salary of Rs.75,995/-. The Tribunal did not add future prospects while computing the loss of dependency. He would further contend that the claimants are three in number and the amount awarded for loss of consortium is not adequate and sought for enhancement of compensation.

6. *Per contra*, the learned counsel for the second respondent/Insurance Company would argue that based on the age, occupation of the deceased and other attending circumstances, the amounts awarded under different heads by the Tribunal appears to be reasonable and acceptable. However, the Tribunal, without deducting

medical allowance of Rs.300/- and professional tax of Rs.200/-, fixed the monthly income of the deceased at Rs.75,995/- and without deducting income tax, granted Rs.79,03,480/- for loss of dependency.

7. It has come on record through evidence of P.W.1 that the deceased had been working as Head Mistress of Panchayat Union Primary School at the relevant point of time and was drawing gross salary of Rs.75,995 as per Ex.P8/Pay Certificate. The Tribunal, while computing loss of dependency, has taken the gross salary of the deceased (Rs.75,995/-) and arrived at the annual income. After deducting 1/3 for personal and living expenses by multiplying 13 M, it worked out to Rs.79,03,480/-.

8. As per Ex.P8/Pay certificate of the deceased, she was drawing gross salary of Rs.75,995/-. The Hon'ble Supreme Court, in various cases, has held that the allowance which is personal in nature cannot be added with the salary. In this case, an amount of Rs.300/- which was granted under the head of medical allowance for the Government servants and a sum of Rs.200/-, the professional tax, has to be deducted from the salary. Therefore, the total salary to be taken for the purpose of computing loss of dependency is Rs.75,495/-. To buttress his contention, the learned

counsel for the Insurance Company has placed reliance on the following judgements:

1. Raghuvir Singh Matolya & Ors. vs. *Hari Singh Malviya & Ors. reported in 2009 (15) SCC 363;*

2. National Insurance Company vs. Nalini and others reported in 2021 (1) TNMAC 79 (SC).

9. By relying upon Ex.P17/Driving licence of the deceased, Ex.P25/ID Card of the deceased and based upon the evidence of P.W.3/D.E.O, Mr.Sivachandran, the age of the deceased at the relevant point of time is taken as 48 years. As regards future prospects, the Hon'ble Supreme Court has standardised the details in *National Insurance Co. Ltd., v. Pranay Sethi and others* reported in *2017 (2) TN MAC 609 (SC)*, wherein for the persons, who are aged between 40-50 years and holding permanent job, 30% has to be added as future prospects while computing the loss of dependency.

10. As held in *Sarla Verma -vs- Delhi Transport Corporation and another, reported in 2009(2) TNMAC 1 (SC)*, the relevant multiplier to be adopted is 13 M. As regards the deduction for personal and living expenses, as the claimants are three in number (husband, son and daughter), 1/3 has to be deducted while computing the loss of

dependency. Based on the aforestated details, the following formula emerges for computing loss of dependency:

Rs.75,495/- + 30% - 1/3 x 12 x 13 M = Rs.1,02,06,924/-

11. The Tribunal has granted a sum of Rs.30,000/- for the claimant nos.2 and 3 under the head of loss of love and affection. Considering the fact that on account of the accident, the claimants 2 and 3 have lost their mother, a sum of Rs.50,000/- is granted in addition to the amount already granted by the Tribunal.

12. The learned counsel for the second respondent/Insurance Company would strenuously contend that as per law laid down by the Hon'ble Supreme Court in *Meenakshi vs. Oriental Insurance Company Limited, (SLA(C) Diary No.39746 of 2018, decided on 23.07.2024),* 20% has to be deducted for income tax.

13. In that case, the petitioner is the mother of the deceased Suriyakanth. The age of the deceased was taken as 23 years. The Tribunal fixed the salary of the deceased, after deducting the professional tax of Rs.200/-, at Rs.50,742/-. As per law laid down by the Hon'ble Supreme Court in *Sarla Verma*'s case (cited supra), as regards the

deduction for personal expenses, 50% was deducted and for future prospects, 50% was added and it was worked out to Rs.6,08,904/- x 17 = Rs.1,03,51,368/-. The said award was challenged by the Insurance Company and the High Court, after deducting Rs.2,400/- for professional tax and Rs.61,857/- for the income tax, arrived the annual income of the deceased at Rs.5,56,710/-. The High Court, in particular, held that the components of HRA, flexible benefit plan and the contribution to Provident Fund, etc., could not be accounted for the purpose of adding of 50% to the gross income of the deceased and the net re-assessed compensation was worked out to Rs.49,57,035/- by the High Court and the same was challenged by the appellant before the Hon'ble Supreme Court. The Hon'ble Supreme Court has held as follows: "However, we are of the opinion that the High Court was justified in deducting the income tax from the gross salary of the deceased Suriyakanth for calculating his gross income. This factor was overlooked by the Accidents Claims Tribunal, while quantifying the award."

14. As regards the deduction of income tax, it is relevant to refer to the observations of the Hon'ble Supreme Court in *Sarla Verma*'s case (cited supra), it has been held that "generally the actual income of the deceased, less the income tax should be the starting point for calculating

the compensation." ... "where the annual income is in the taxable range, the word `actual salary' should be read as `actual salary less tax'."

15. In this case, the annual salary of the deceased comes to Rs.75,995/- x 12 = Rs.9,11,940/-.

16. As per Ex.P8/Pay certificate of the deceased, a sum of Rs.1,560/- was being deducted for income tax. Based on Ex.P8/Pay Certificate, the annual income of the deceased clearly comes within taxable range. Therefore, income tax has to be deducted. As per law laid down by the Hon'ble Supreme Court in *Vimal Kanwar & others vs. Kishore Dan reported in AIR 2013 SC 3830,* the presumption will be that employer-State Government at the time of payment of salary deducted income-tax on the estimated income of the deceased employee from the salary and deducted 20% of the income tax from the salary of the deceased.

Hence, Rs.1,02,06,924/- - 20% = Rs.81,65,539/-

17. As regards other heads, the amounts awarded by the Tribunal appear to be reasonable and acceptable and hence, it does not warrant any interference by this Court. The amounts awarded by this Court as mentioned supra, are re-worked and tabulated hereunder:

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For loss of dependency	Rs.79,04,000/-	Rs.1,02,06,924/-	
	Less: Income Tax (20% - Rs.20,41,385/-)		Rs. 81,65,539/-	enhanced
2	For loss of consortium (for 1st appellant)	Rs. 40,000/-	Rs. 40,000/-	confirmed
3	For loss of love and affection (for appellants 2 & 3)	Rs. 30,000/-	Rs. 80,000/-	enhanced
4	For funeral expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
5	For loss of estate	Rs. 15,000/-	Rs. 15,000/-	confirmed
6	For transportation	Rs. 10,000/-	Rs. 10,000/-	confirmed
7	For medical expenses	Rs. 26,000/-	Rs. 26,000/-	confirmed
	Total	**Rs. 80,40,000/-**	**Rs.83,51,539/-**	**Enhanced**

Rounded off to Rs.83,51,500/-

18. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.80,40,000/- to Rs.83,51,500/-.

(iii) The second respondent/Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.83,51,500/- (less the amount already deposited, if any) along with interest at 7.5% p.a. from the date of claim petition till the date of realisation to the credit of M.C.O.P.No.20 of 2019 on the file of the Motor Accidents Claims Tribunal/Subordinate Court, Pollachi, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellants are permitted to withdraw their share of the award amount, as per the apportionment fixed by the Tribunal, with interest, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(v) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

09.01.2026

Index : Yes/No

Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
apd

To

1.The Judge,
Motor Accidents Claims Tribunal/Subordinate Court,
Pollachi.

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

R.KALAIMATHI, J.

apd

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