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C.M.A.No.3558 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2026

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.3558 of 2025

1.Thilagavathi
2.Minor. Vaishnavi
3.Minor. Nishal
(A2 & A3 are rep. by their mother Thilagavathi/A1)
4.Sali
5.Palanisamy.

...Appellants

vs.

1.G.Srinivasan

2.M/s.National Insurance Co. Ltd
Having branch office at No.88-F, Bye pass road,
Dharmapuri District - 636701
Having Divisional Office at No.1, L.R.N.Building,
L.R.N.Colony
Saradha College Main Road,
Salem - 636 007.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 19.02.2021 made in M.C.O.P.No.215 of 2019 on the file of the Motor Accidents Claims Tribunal/Special District Court, Salem.



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For Appellants : Mr.R.Nalliyappan

For R-2 : Mr.D.Baskaran

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the Award dated 19.02.2021 made in M.C.O.P.No.215 of 2019 on the file of the Motor Accidents Claims Tribunal/Special District Court, Salem, 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 by the legal heirs of the deceased Dharmalingam under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.70,00,000/- for the death of Dharmalingam who died in a road traffic accident that occurred on 27.08.2018.

4. The Tribunal, upon consideration of the oral and documentary evidence and after hearing the arguments advanced by either side, passed an award for a sum of Rs.30,66,352/- with interest at the rate of 7.5% p.a. from the date of filing of claim petition.



5. The amounts awarded by the Tribunal under the different heads

are given hereunder:

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S.No	Head	Amount
1.	For loss of dependency	Rs.29,96,352/-
2.	For loss of consortium	Rs.40,000/-
3.	For loss of estate	Rs.15,000/-
4.	For funeral expenses	Rs.15,000/-

6. The learned counsel for the appellants/claimants would vehemently argue that the amount awarded under the head for loss of consortium is inadequate. It is further argued that the contributory negligence to the tune of 15% was fixed upon the deceased is incorrect. He would further contend that as the claimants are five in number, for personal and living expenses, 1/3 was deducted by the Tribunal, which is incorrect and sought for enhancement of compensation.

7. *Per contra*, the learned counsel for the second respondent/Insurance Company would strenuously contend that based upon the age, avocation and the other attending circumstances of the deceased, the amounts



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awarded by the Tribunal under different heads are reasonable and acceptable and hence, it does not warrant any interference by this Court and sought for dismissal of the appeal.

8. The claim petition was filed by the wife, two minor children, father and mother of the deceased. As held in *National Insurance Co. Ltd., v. Pranay Sethi and others* reported in 2017 (2) TN MAC 609 (SC), each claimant is entitled to a sum of Rs.40,000/- for loss of consortium. Therefore, for loss of consortium, an amount of Rs.1,60,000/- is granted in addition to the amount already granted by the Tribunal.

9. As regards contributory negligence, nothing is stated about the same in the counter of the second respondent. Based on Ex.P20/rough sketch and Ex.P2/Postmortem Certificate, the Tribunal has concluded that the deceased had also contributed towards negligence and fixed the same at 15%. Whether the deceased was wearing helmet was not elicited through the ocular witness and by relying upon the postmortem certificate fixing of contributory negligence upon the deceased is not acceptable and that portion of the finding of the Tribunal stands set aside.

10. Next issue is with regard to the deduction for living and personal expenses. The claimants are five in number as mentioned supra. The



Tribunal has deducted 1/3rd towards personal and living expenses of the deceased. As held in *Sarala Varma -vs- Delhi Transport Corporation and another*, reported in 2009(2) TNMAC 1 (SC), the Hon'ble Supreme Court has standardized the details of the deduction for living and personal expenses. If the claimants are five in number, 1/4 has to be deducted. As per Ex.P5/Driving licence of the deceased, age of the deceased is taken as 33 years. The relevant multiplier to be adopted is 16 M. As regards the future prospects, as held in *Pranay Sethi (cited supra)*, the Hon'ble Supreme Court has standardized the details of the future prospects while computing loss of dependency. The deceased was working as conductor of Tamil Nadu State Transport Corporation as per Ex.C1/copy of pay slip, Service history and service register. In respect of persons in permanent job, for the age group of persons below 40 years, 50% is to be added while computing loss of dependency. The following formula emerges, while computing the loss of dependency:

$$\text{Rs.18,360/-} + 50\% - \frac{1}{4} \times 12 \times 16\text{M} = \text{Rs.39,65,760/-}$$

11. As regards other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable and it does not warrant any interference by this Court. The amounts awarded by this Court, as mentioned supra, after rework is tabulated hereunder:



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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.35,25,120/-		
	(-) less 15% for Contributory negligence	(-) Rs. 5,28,769/-		Set aside
	For loss of dependency	Rs.29,96,352/-	Rs.39,65,760/-	
2	For loss of consortium	Rs.40,000/-	Rs.2,00,000/-	enhanced
3	For loss of estate	Rs.15,000/-	Rs.15,000/-	confirmed
4	For funeral expenses	Rs.15,000/-	Rs. 15,000/-	confirmed
	Total	Rs.30,66,352/-	Rs.41,95,760/-	
	Rounded off as		Rs.41,96,000/-	Enhanced by Rs.11,29,648/-

12. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.30,66,352/- to Rs.41,96,000/-.

(iii) The second respondent/Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.41,96,000/- (less the



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amount already deposited, if any) along with interest at 7.5% p.a. from the date of filing of the claim petition till the date of realisation to the credit of M.C.O.P.No.215 of 2019 on the file of the Motor Accidents Claims Tribunal/Special District Court, Salem, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) The first appellant is entitled to Rs.18,96,000/-, the appellants 2 and 3 are entitled to Rs.9,00,000/- each and the appellants 4 and 5 are entitled to Rs.2,50,000/- each. On such deposit being made, the appellants 1, 4 and 5 are permitted to withdraw their share award amount with interest, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(v) The share of the minors/appellants 2 and 3 shall be deposited in any one of the nationalized banks in an interest bearing Fixed Deposit, initially for a period of three years, renewable thereafter, till the minors attain majority and the first appellant, who is the mother of the minors, Thilagavathi, is permitted to withdraw interest once in three months from the said amount and utilise the same for the welfare of the minor claimants/appellants 2 and 3.

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



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

22.01.2026

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/Special District Court,
Salem.

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



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R.KALAIMATHI, J.

apd

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