



C.M.A.No.2610 of 2022 & Cross Obj. No. 2 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2026

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A.No.2610 of 2022

and

Cross Obj. No. 2 of 2023

and

C.M.P. No. 22086 of 2023

C.M.A. No. 2610 of 2022:

Royal Sundaram General Insurance Co. Ltd.,
Office No.186/5, Royal Towers, 3rd Floor,
New Bus Stand Road, Meyyanur, Salem – 4,
Salem Taluk, Salem District.

... Appellant

Vs.

- 1.Pushpa
- 2.Minor Nivetha
Rep., by guardian / mother Pushpa
- 3.Kengannan
- 4.Kanjammal
- 5.Jayaraman

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6.Vasantha

... Respondents

(5th and 6th respondents remained exparte and notice dispensed with for them)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 08.07.2022 made in M.C.O.P.No.59 of 2018 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Mettur.

For Appellant : Mr. M. Krishnamoorthy.

For Respondents : Mr. D. Raghu for R1 to R4.
R5 & R6 – Exparte.

Cross Obj. No. 2 of 2023:

1.Pushpa

2.Minor Nivetha

Rep., by guardian / mother Pushpa

3.Kengannan

4.Kanjammal

... Cross Objectors

Vs.

1.Royal Sundaram General Insurance Co. Ltd.,

Office No.186/5, Royal Towers, 3rd Floor,
New Bus Stand Road, Meyyanur, Salem – 4,
Salem Taluk, Salem District.

2.Jayaraman

3.Vasantha

... Respondents



C.M.A.No.2610 of 2022 & Cross Obj. No. 2 of 2023

PRAYER: Cross Objection filed under Order 41 Rule 22 of C.P.C., to enhance the compensation amount and fix the entire liability on the respondents/appellants awarded in the Judgment and decree dated 08.07.2022 made in M.C.O.P.No.59 of 2018 on th file of the Motor Accident Claims Tribunal, Sub ordinate Court, Mettur.

For Cross Objectors : Mr. D. Raghu.

For Respondents : Mr. M. Krishnamoorthy for R1.

R2 & R3 – Exparte.

J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

Civil Miscellaneous Appeal in C.M.A. No. 2610 of 2022 has been filed by the respondent / Insurance company to set aside the award dated 08.07.2022 passed by the learned Sub Judge in M.C.O.P. No. 59 of 2018 and Cross Objection in Cross Obj. No. 2 of 2023 has been filed by the claimants to enhance the compensation awarded by the Tribunal. Parties are hereinafter referred as per their rank in the civil miscellaneous appeal for the sake of convenience.

2. The facts of the case in brief are as follows;

On 25.08.2017, when the husband of the first respondent viz., Senthil Kumar was proceeding in Sankagiri to Edapadi Main Road in his lorry bearing Reg. No.TN 52 E 3064, he had stopped the lorry in the left hand side of the road near Government Arts College and was checking the tires. At that time, a lorry bearing

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Reg. No. TN 56 9168 driven by the fifth respondent in a rash and negligent manner

dashed on the said Senthil Kumar and he succumbed to injuries on the spot.

Hence, respondents 1 to 4 who are the wife, children and parents of the deceased filed a claim petition claiming compensation against the appellant/ the insurer of the vehicle, the fifth respondent/driver of the vehicle and the sixth respondent/owner of the vehicle. The appellant has filed counter disputing the averments of the claim petition and contended that the deceased was solely responsible for the accident and hence, they are not liable to pay the compensation. The fifth and sixth respondents remained *ex parte* before the tribunal. The respondents 1 to 4 have examined four witnesses on their side viz., PW1 to PW4 and 22 documents have been examined on their side viz., Ex.P.1 to Ex.P.22 and the bank statements of the deceased have been marked as Ex.C.1 and Ex.C.2. The appellant has examined the fifth respondent as RW1 and four documents have been marked viz., Ex.R.1 to Ex.R.4. The Tribunal after considering the pleading, documents and materials available on record concluded that the appellant, the fifth and sixth respondents are jointly liable to pay the compensation of Rs.35,20,000/- to the respondents 1 to 4. Challenging the said award, the appellant has come by way of this appeal and the respondents 1 to 4 have filed the cross objection seeking for enhancement.



3. The primary grievance of the appellant is that the Tribunal erroneously fixed the monthly notional income of the deceased at Rs.40,000/- without considering judicial precedents. Further, it is submitted that the deceased is solely responsible for the accident for having parked the lorry on the middle of the road as per Ex.R.3. Moreover, the compensation awarded under the other heads are on the higher side and sought to set aside the award.

4. Per contra, the learned counsel for the respondents 1 to 4 submitted that the tribunal erred in fixing Rs.40,000/- as monthly income of the deceased who was doing the lorry transport business and was earning Rs.1,00,000/- per month. It is further submitted that the compensation awarded under the other heads are on the lower side and the same needs to be enhanced.

5. Heard the parties and perused the materials available on record.

6. It is submitted that the deceased was doing the lorry transport business and was earning Rs.1,00,000/- per month. However, the tribunal based on Ex.C.1 and Ex.C.2 has rightly determined the monthly income of the deceased at Rs.40,000/- per month. Since the deceased was aged 52 years as per Ex.P.2, 10% has to be



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added towards future prospects and the multiplier applicable would be '11'.

Though there are four dependants, the tribunal erred in deducting $\frac{1}{3}$ rd towards personal expenses and hence, $\frac{1}{4}$ th has to be deducted towards personal expenses. Hence, the monthly income of the deceased would amount to Rs.40,000/- + 10% future prospects (Rs.4,000/-) = Rs.44,000/- (-) $\frac{1}{4}$ = Rs.33,000/- X 11 X 12 = Rs.43,56,000/-.

7. The tribunal, after awarding compensation under the head Loss of love and affection ought not to have awarded compensation under the head pain and sufferings and hence, Rs.1,00,000/- awarded towards pain and sufferings is deleted. The amount of Rs.1,00,000/- awarded under the head Loss of love and affection is on the lower side. Since there are four dependants, Rs.40,000/- is awarded to each and the same is enhanced to Rs.1,60,000/-. The compensation awarded under the head Transportation is appropriate and the same is confirmed. The compensation of Rs.10,000/- awarded under the head Funeral Expenses is on the lower side and the same is enhanced to Rs.15,000/-. Accordingly, the compensation is now revised as follows:

S.No	Description	Amount	Amount	Award
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		awarded by Tribunal (Rs)	awarded by this Court (Rs)	confirmed or enhanced or granted or reduced
1	Loss of income	Rs.3,300,000	Rs.4,356,000	Enhanced
2	Pain and sufferings	Rs.100,000	--	Set aside
3	Loss of love and affection	Rs.100,000	Rs.160,000	Enhanced
4	Transport Expenses	Rs.10,000	Rs.10,000	Confirmed
5	Funeral Expenses	Rs.10,000	Rs.15,000	Enhanced
	Total	Rs.3,520,000	Rs.4,541,000	Enhanced

8. In the result, the Civil Miscellaneous Appeal filed by the appellant/ insurance company is dismissed and the cross objection filed by the respondents 1 to 4 is partly allowed modifying the award of the Tribunal to the extent indicated above. The appellant/insurance company and the fifth and sixth respondents are directed to deposit the award amount now determined by this Court, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit along with interest and costs, less the amount already deposited if any

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within a period of two months from the date of receipt of a copy of this Judgment.

On such deposit, the respondents 1, 3 and 4 are permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn as per the apportionment fixed by the Tribunal. The share of the minor second respondent is directed to be deposited in any of the Nationalized bank in the interest bearing fixed deposit till she attains majority and the accrued interest is permitted to be withdrawn by the first respondent once in three months for the welfare of the minor. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.K., J) (A.D.M.C., J)
22.01.2026

ay

Index:Yes/No

Speaking Order/Non-Speaking Order

Neutral citation:Yes/No

To

1.The Motor Accident Claims Tribunal,
Sub-ordinate Court,
Mettur.

2.The Section Officer,
VR Section,

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High Court of Madras,
Chennai.

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