



C.M.A.No.2672 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2026

CORAM

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

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1.Kanagaraju
S/o.Ramasamy

2.Vengatesvaran Kanagaraju
S/o.Kanagaraju

3.Gopinath Kanagaraju
S/o.Kanagaraju

... Appellants

VS

1.The Correspondent,
Shri Sakthi Kailash Women's College,
Military Road, Ammapet, Salem.

2.The United India Insurance Company Ltd.,
D.O.-II, 104-A, Ranga Building,
Permanur Main Road,
Near Four Roads, Salem.

... Respondents

Prayer: Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.03.2022 passed in M.C.O.P.No.1584 of 2018 on the file of Special District Judge, MCOP Tribunal, Salem, praying for enhancement of compensation.



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For Appellant : Dr.P.Jagadeesan

For Respondents : No appearance [R1]
Mr.S.Arunkumar [R2]

JUDGMENT

[Judgment of the Court was delivered by **C.V. KARTHIKEYAN, J**]

Not being satisfied with the quantum of compensation awarded by the Tribunal in and by its judgment and decree dated 01.03.2022 passed in M.C.O.P.No.1584 of 2018 on the file of Special District Judge, Motor Accident Claims Tribunal, Salem, appellants/claimants have filed the present appeal.

2. For the sake of convenience, the appellants herein are referred to as 'claimants' and the second respondent is referred to as 'Insurance Company'.

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

On 18.07.2018 at about 08.45 a.m., when the deceased Chandra was riding pillion in the two wheeler bearing registration No.TN-30-E-0673 from



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Kannankurichi towards Salem ridden by her husband, at that time, a bus bearing registration No.TN-45-AK-0969 driven by its driver in a rash and negligent manner, hit the two wheeler from behind, owing to which the deceased Chandra met her instantaneous death. The deceased was aged about 57 years and a teacher in Government Higher Secondary School. The first petitioner is the husband and petitioners 2 and 3 are sons of the deceased. Since the accident had occurred owing to the rash and negligent driving of the bus, the claimants have filed the claim petition seeking compensation.

4. The claim was resisted by insurance company by filing a detailed counter disputing dependency of petitioners and income of the deceased.

5. To prove the case, on the side of claimants, 2 witnesses were examined as PW-1 and PW-2 and Exs.P1 to P20 were marked. On the side of insurance company, none were examined and no exhibits were marked.



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6. On appreciation of materials on record, the Tribunal found that the accident had occurred owing to the rash and negligent driving of the bus belonging to first respondent and computed the compensation as Rs.22,82,152/- payable along with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation. Challenging the same, claimants have filed the present appeal.

7. Learned counsel for claimants submitted that the Tribunal have taken the monthly income of the deceased as Rs.30,516/- while calculating loss of income, which is on the lower side and he further submitted that no amount has been awarded towards loss of consortium to the husband and the compensation awarded towards loss of love and affection is also on the lower side. Submitting as above, learned counsel prays for enhancement of compensation.

8. *Per contra*, learned counsel for insurance company submitted that the husband/claimant No.1, is not dependent on the deceased as he has already separated himself and having his own income. Similarly, other



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dependents/sons are also not dependent. Though the insurance company has filed cross-objection challenging the quantum awarded, the same is in numbering stage and he further submitted that compensation awarded is also on the higher side and opposed the appeal. He further submitted that, if the award is confirmed, he is not willing to make any cross-objection.

9. We have considered the rival submissions. Perused the materials on record.

10. On a perusal of the award passed by the Tribunal, we find that the Tribunal has fixed the salary of the deceased based on the salary certificate [Ex.P7] for calculating loss of income and since the deceased was a Government employee, the Tribunal considering the age and dependents of the claimants, fixed the compensation. We find that though husband and sons are legal representatives entitled to succeed the estate of deceased, they are also entitled for compensation. We also find that the compensation awarded under the head 'loss of income' is reasonable. Learned counsel for appellants has also agreed for confirmation of the compensation awarded



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under the head 'Loss of Income' by the Tribunal. Hence, we confirm the compensation under the head 'Loss of Income'. However, the claimants are entitled for compensation towards consortium and other conventional heads. Accordingly, all the claimants are entitled for each Rs.40,000/- under the head 'Loss of Consortium'. They are also entitled to Rs.15,000/- under each head of 'Loss of Estate' and 'Funeral Expenses'.

11. Accordingly, the modified compensation payable would be:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of income	21,97,152/-	21,97,152/-
2.	Loss of consortium (each Rs.40,000/-)	-	1,60,000/-
3.	Loss of love and affection	60,000/-	-
4.	Loss of estate	-	15,000/-
5.	Funeral expenses	25,000/-	15,000/-
	Total	22,82,152/-	23,87,152/-

Accordingly, the Civil Miscellaneous Appeal is partly allowed. The compensation of **Rs.22,82,152/-** awarded by the Tribunal is hereby enhanced to **Rs.23,87,152/-**. The second respondent insurance company is directed to



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deposit the compensation of **Rs.23,87,152/-** (Rupees Twenty Three Lakhs Eighty Seven Thousand One Hundred and Fifty Two only), less the amount already deposited, together with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. On such deposit being made by second respondent insurance company, the claimants are permitted to withdraw their respective share, as apportioned by the Tribunal, along with accrued interest and costs, less the amount, if any already withdrawn by them, by filing necessary application before the Tribunal. No costs.

[C.V.K., J] [K.R.S., J]
04.03.2026

Speaking / Non-speaking order
Index: Yes/No, NCC:Yes/No
gm

To
The Motor Accident Claims Tribunal,
Special District Judge,
MCOP Tribunal, Salem.



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and
K.RAJASEKAR, J

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