



WEB COPY



C.M.A.(MD)No.38 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.02.2026

Pronounced on : 17.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A.(MD)No.38 of 2025

1.Niraikulathupandi,
S/o. Niraikulam,
No.5/68, East Street,
Sennalkudi,
Virudhunagar Taluk,
Virudhunagar District.

2. Nithispandian,
S/o. Niraikulathupandi,
No.5/68, East Street,
Sennalkudi,
Virudhunagar Taluk,
Virudhunagar District.

3. Soundhirapandiyan,
S/o.Niraikulathupandi,
No.5/68, East Street,
Sennalkudi,
Virudhunagar Taluk,
Virudhunagar District.

4.Sundarapandiyan,
S/o.Niraikulathupandi,
No.5/68, East Street,
Sennalkudi,
Virudhunagar Taluk,
Virudhunagar District.

... Appellants/Petitioners

Vs.



C.M.A.(MD)No.38 of 2025

1.Rengaraj,
S/o. Karuppaiya,
No.2/143, West Street,
Sennalkudi,
Virudhunagar Taluk,
Virudhunagar District.

2.The Manager,
MAGMA HDI General Insurance Company Limited,
Madurai Having its Office In
Navin's Presidium,
3rd Floor, N.M.Road,
No.17/19 and 103,
B Block, Nelson Manickam Road,
Chennai.

...Respondents/Respondents

(Minor 4th Petitioner is declared as major and the guardianship of his father 1st Petitioner, Niraikulathupandi, is discharged vide Court order, dated 08.01.2026 made in CMP(MD)Nos.14650 & 14652 in CMA(MD)No.38 of 2025 respectively.)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal for enhancement of the compensation amount of Rs.16,85,100/- in MCOP.No.68 of 2021, dated 07.12.2024 passed by the Motor Accident Claims Tribunal/Additional District Judge, Virudhunagar.

For Appellants	: Mr.V.Balasundara Kumar
For R1	: No Appearance
For R2	: Mr.N.Shyllappa Kalyan



JUDGMENT

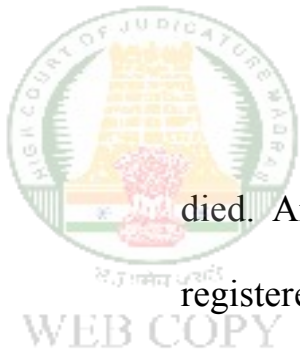
This Civil Miscellaneous Appeal is preferred challenging the Award, dated 07.12.2024 passed in MCOP.No.68 of 2021 by the Motor Accident Claims Tribunal/Additional District Judge, Virudhunagar.

2.The petitioners/claimants in M.C.O.P.No.68 of 2021 have preferred the appeal seeking for enhancement of compensation. The respondents herein are respondents 1 and 2 in the claim petition.

3.For the sake of convenience, the parties as arrayed in M.C.O.P.No.68 of 2021 are adopted hereunder.

4.The brief facts of the case:

On 23.02.2021 at about 5.00 p.m., the deceased Bakiyalakshmi, along with her relatives were drying the agricultural goods on the side of the Sennalkudi - Kottur road near Sennalkudi. At that time, the first respondent's two wheeler bearing registration No.TN 67 BL 4972 was ridden by its rider along with two pillion riders at a hectic speed from north to south on the said road and dashed against the deceased. Due to the impact, the deceased Bakiyalakshmi was thrown away and sustained multiple fatal injuries. Immediately, she was taken to Government Hospital, Virudhunagar, but she



died. An FIR in Crime No.56 of 2021 U/s.279 and 304(A) of IPC was registered against the rider of the two wheeler by the Soolakarai Police Station. The deceased Bakiyalakshmi was 42 years old, and was earning Rs.20,000/- p.m. as she was doing agricultural work. The first petitioner is the husband, and the petitioners 2 to 4 are sons of the deceased Bakiyalakshmi. The first respondent's vehicle was insured with the second respondent at the time of the accident. Hence, the petitioners filed a claim petition seeking compensation of Rs.35,00,000/-.

5.The first respondent remained ex-parte.

6.The 2nd respondent/Insurance Company objected the claim petition by contending that the rider of the first respondent was not holding a valid license at the time of the accident. However, the accident took place due to the rash and negligence of the deceased, who crossed the road without due care. Hence, the second respondent is not liable to pay any compensation to the petitioners.

7.Before the Tribunal, on the petitioners' side, the first petitioner was examined as PW1 and Ex.P.1 to Ex.P.17 were marked. On the second respondent's side, R.W.1 and R.W.2 were examined and Ex.R.1 to Ex.R.3



C.M.A.(MD)No.38 of 2023

were marked. In addition, Ex.C.1 was also marked.

WEB COPY

8.After hearing both sides and after considering the evidence, the Tribunal has passed the impugned order, dated 07.12.2024 that the accident took place due to the rash and negligent riding of the first respondent's two wheeler. The Tribunal has fixed the notional income of the deceased at Rs.10,000/- p.m. and awarded a total compensation of Rs.14,77,000/- to the petitioners. The Tribunal further directed the second respondent to deposit the awarded amount and to recover the same from the first respondent by filing a separate application, as the first respondent's rider has no driving license.

9.Aggrieved by the said award, the petitioners/claimants have preferred this Civil Miscellaneous Appeal.

10.Heard both sides and perused the records in this Civil Miscellaneous Appeal.

11.The learned counsel for the petitioners/claimants has submitted that when the deceased Bakiyalakshmi was drying the pulses of agricultural products, the first respondent's vehicle rider caused the accident due to his rash and negligent driving. An FIR was registered against the rider of the two



wheeler. Therefore, the Tribunal has correctly fixed the negligence on the part of the first respondent's rider.

12.The learned counsel for the 2nd respondent/Insurance Company has submitted that the deceased Bakiyalakshmi was doing agricultural work on a road, which is meant for traffic, and therefore, some reasonable contributory negligence may be fixed on her.

13.The learned counsel for the petitioners replied that the 2nd respondent/Insurance Company has not filed any cross appeal or appeal against the finding of the Tribunal.

14.On perusal of the records, the FIR was registered only against the rider of the first respondent's two wheeler. Moreover, the first petitioner, who is an eye witness to the occurrence, has categorically deposed the evidence by examining himself as P.W.1. No contrary evidence was let in by the 2nd respondent/ Insurance Company. Moreover, as rightly submitted by the petitioners' counsel, the 2nd respondent/Insurance Company has not preferred any cross appeal. Therefore, the finding of the Tribunal regarding negligence on the part of the 1st respondent's rider is correct and there is no necessity to fix contributory negligence upon the deceased Bakiyalakshmi.



WEB COPY

15.Next, the petitioners/claimants contended that the deceased was doing agricultural work and was earning Rs.20,000/- p.m. Though the petitioners/claimants were unable to produce any income proof, the Tribunal ought to have fixed the notional income of Rs.15,000/- p.m. as per the settled position in **Syed Saddiq** case. As the deceased was aged 42 years, 25% of the income has to be added towards future prospects. The Tribunal has deducted 1/3 from the income towards personal expenses, by taking into consideration only the husband of the deceased. The husband of the deceased was an agricultural coolie, so he cannot be excluded from the dependents of the deceased, therefore, 1/4 of the income has to be deducted towards personal expenses. The Tribunal has granted only Rs.44,000/- towards the consortium to all the petitioners. It is a settled position that all the claimants are entitled to consortium amount each. Therefore, the compensation awarded by the Tribunal may be enhanced. In support of his submissions, the learned counsel for the petitioners/claimants has relied on the following rulings:

(1) 2024 (1) TN MAC 507 Madras High Court in the case of "United Indian Insurance Co. Ltd. /v/ Kavitha and Others".

(2) 2018 (2) TN MAC 452 (SC) in the case of Magma General Insurance Co. Ltd., /v/ Nanu



C.M.A.(MD)No.38 of 2025

Ram alias Chuhru Ram and Ors.

(3) Order of the Hon'ble High Court of Madhya Pradesh at Jabalpur in C.M.A.No.3764 of 2025 dated 17.09.2025 in the case "United India Insurance Company /v/ Shubham Kumar Jatav and Others."

(4) 2025 (1) TN MAC 155 of Madras High Court in the case of S.Pazhani & Ors. /v/ Managing Director, TN State Transport Corporation"

(5) Order of this Court in C.M.A.No.14 of 2025, dated 10.01.2025 in the case of Elanthenral /v/ Mathiyalagan & Ors.

16. The learned counsel for the 2nd respondent/Insurance Company submitted that the petitioners have not produced any material to show their income. However, the learned counsel submitted that considering the age of the deceased, the notional income may be taken as Rs.12,000/- p.m. and also conceded to deduct 1/4 of the income towards personal expenses and grant of consortium at Rs.44,000/- each to all the claimants.



17. In reply, the learned counsel for the petitioners/claimants prayed that the notional income may be fixed at Rs.13,000/- p.m.

18. On perusal of the records, admittedly, the petitioners/claimants have no material to prove the income of the deceased, who was stated to be an agricultural coolie. The accident took place on 23.03.2021. In the absence of any income proof, the Tribunal has to fix the notional income as per the guidelines issued by the Hon'ble Supreme Court in **Syed Saddiq** case. The deceased Bakiyalakshmi was aged 42 years, which is not denied. On perusal of the records, the Tribunal has fixed the notional income at Rs.10,000/-. According to the decision rendered by the Hon'ble Supreme Court in **Syed Sadiq /v/ United Indian Insurance** case reported in **2014 (1) TN MAC 459 (SC)** and subsequent cost inflation index as settled by the **Division Bench of this Court in Andal /v/ Avinav Kumar** case reported in **2019 (1) TN MAC 54 (DB)**, the notional income has to be fixed. On perusal of the citations, this Court, in a case of **S.Pazhani /v/ Managing Director, TN State Transport Corporation** reported in **2025 (1) TN MAC 155**, has fixed the notional income at Rs.15,000/- per month for a deceased, who was aged 35 years, and a daily wage. In this case, the deceased's age was 42 years. During the course of the argument, though the petitioners/claimants have prayed for notional income of Rs.13,000/-, the learned counsel for the



2nd respondent/Insurance Company has admitted to fix Rs.12,000/- p.m.

Therefore, considering the above, there would be nothing wrong in fixing the notional income of the deceased as Rs.12,000/-. The age of the deceased was 42 years and she was not a permanent employee. As per the settled proposition of law in **Pranay Sethi** case reported in **2017 (2) TNMAC 609 (SC)**, 25% of income has to be added towards future prospects in respect of non-permanent employees. On perusal of the award, the Tribunal has correctly added 25% future prospectus. So, the future prospectus is to be added by 25%. By adding 25%, the income of the deceased is fixed at Rs.15,000/- p.m. (Rs.12,000/- + Rs.3,000/- (25% of Rs.12,000/-).

19.The Tribunal has deducted 1/3rd amount towards personal expenses of the deceased, excluding the husband. The deceased was a family woman consisting husband and three sons. As per the settled proposition of the Hon'ble Supreme Court in **Sarala Verma case and Pranay Sethi Case** and its subsequent decision in **Sri Malakappa case reported in 2025 (1) TN MAC 649 (SC)**, 1/4th of the income has to be deducted towards personal expenses. Accordingly, Rs.3,750/- (1/4 of Rs.15,000/-) is to be deducted towards personal expenses. After deducting the personal expenses, the loss of income of the deceased dependants is arrived at Rs.11,250/- p.m. Considering the age of the deceased, the Tribunal has correctly adopted the



multiplier '14'. Therefore, loss of income due to the death of the deceased Bakiyalakshmi would come to Rs.11,250/- x 12 x 14 = Rs.18,90,000/-. But, the Tribunal erroneously arrived at Rs.14,00,000/-, which is not sustainable.

20. While considering the loss of consortium, the Tribunal has only awarded Rs.44,000/- to all the petitioners. As per the dictum laid down by the Hon'ble Supreme Court in **Pranay Sethi case (2017 (2) TNMAC 609 (SC)**, each dependents of the deceased are entitled to Rs.40,000/- each towards spousal consortium, parental consortium and filial consortium and other incidental charges and also there should be an enhancement of 10% on consortium once in every three years including funeral expenses and loss of estate. The accident took place in the year 2021. The Award passed in the year 2024. Hence, the petitioners, being the husband and sons of the deceased are entitled Rs.44,000/- each towards consortium. On perusal of the order of the Tribunal, it has awarded Rs.16,500/- towards funeral expenses and Rs.16,500/- towards loss of estate. It is not disputed by the learned counsel for the second respondent. Therefore, this Court holds that the Tribunal has correctly awarded just compensation under the heads - funeral expenses and loss of estate.



21. Thus, this Court holds that the total compensation payable to the appellants/petitioners/claimants in MCOP.No.68 of 2021 as follows:

Sl. No.	Description	Amount awarded by this Court
1.	Loss of income Rs.11,250/- x 12 x 14 = Rs.18,90,000/-	Rs.18,90,000/-
2.	Towards spousal consortium to the 1 st petitioner, being the husband of the deceased.	Rs. 44,000/-
3.	Towards filial consortium for the petitioners 2 to 4 (being the sons of the deceased) (Rs.44,000/- x 3)	Rs. 1,32,000/-
4.	Towards funeral expenses	Rs. 16,500/-
5.	Towards loss of estate	Rs. 16,500/-
	Total	Rs.20,99,000/-

Therefore, the petitioners 1 to 4/claimants in MCOP.No.68 of 2021 are entitled to Rs.20,99,000/-. Therefore, to that extent, the compensation Rs.14,77,000/- awarded by the Tribunal is set aside and enhanced to Rs.20,99,000/- from Rs.14,77,000/-. In other respects, the award of the Tribunal has to be confirmed.

22. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed. The quantum of compensation Rs.14,77,000/- awarded by the Tribunal in MCOP.No.68 of 2021, is modified and enhanced to Rs.20,99,000/- (Rupees Twenty lakhs and ninety nine thousand only).



(ii)The 1st claimant/husband of the deceased, who is the first appellant herein is entitled to receive a sum of Rs.2,99,000/-, the claimants 2 to 4 sons of the deceased, who are appellants 2 to 4 herein are entitled to receive a sum of Rs.6,00,000/- each with proportionate interests and costs and they are directed to pay the required Court fee for excess compensation within a period of four weeks from the date of receipt of a copy of this order.

(iii)The 2nd respondent/Insurance Company is directed to deposit the entire compensation amount, as ordered by this Court less the amount already deposited, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit to the credit of M.C.O.P.No.68 of 2021 on the file of Motor Accident Claims Tribunal/Additional District Judge, Virudhunagar within a period of six weeks from the date of receipt of a copy of this order. The petitioners/claimants are not entitled to interest for the default period, if any. The 2nd respondent/Insurance Company is entitled to recover the deposited amount from the first respondent as ordered by the Tribunal.

(vi)On such deposit being made by the 2nd respondent/Insurance Company, the claimants/appellants 1 to 4 herein are permitted to withdraw their entire share amount as apportioned by this Court with proportionate



C.M.A.(MD)No.38 of 2023

interest and cost by filing appropriate application before the Tribunal, less the amount already withdrawn if any. No costs.

17.03.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Motor Accident Claims Tribunal/
Additional District Judge,
Virudhunagar.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD)No.38 of 2025

P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
C.M.A.(MD)No.38 of 2025

17.03.2026