BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.03.2026

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD).No.412 of 2026
and
C.M.P.(MD).No.3923 of 2026

1.The Branch Manager,
The New India Assurance Company Limited,
58, Police Station Road,
Sivakasi – 626123.

2.The Divisional Manager,
The New India Assurance Company Limited,
Opposite LIC Bus Stop,
Tiruvananthapuram Road,
Palayamkottai,
Thirunelveli – 627002. ... Appellants / Respondent Nos.2&3

Vs.

1.Christy Ponselvi
2.Minor.Sam Vilson
(The second respondent herein through his mother and next friend the first respondent herein)
3.Sundarraj ...Respondent Nos.1 to 3/ Petitioners
4.The Proprietor,
M/s.P.K.Transport,
11, Ameer Square Building,
Kailasapuram,
Tirunelveli – 627001. ... Respondent No.4 / Respondent No.1

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, challenging the quantum of award passed in M.C.O.P. No. 321 of 2022 dated 11.08.2025 on the file of the Motor Accident Claims Tribunal and Additional Subordinate Judge of Tirunelveli and allow the above Civil Miscellaneous Appeal.

For Appellants	:	Mr.V.Sakthivel
For R1	:	Mr.S.Srikanth

J U D G M E N T

(Judgment of the Court was delivered by **K.K.RAMAKRISHNAN,J.**)

The appellant, namely the Insurance Company, which figured as respondent Nos. 2 and 3 in M.C.O.P. No. 321 of 2022 on the file of the Motor Accident Claims Tribunal-cum-Additional Subordinate Judge, Tirunelveli, has preferred the present appeal challenging the quantum of compensation awarded by the Tribunal under the impugned judgment dated 11.08.2025.

2. **The brief facts of the case:**

The case of the claimants is that one Daniel Rathnasingh met with a fatal accident on 07.11.2021 while he was travelling in his car bearing Registration No. TN-14-E-5146. At that time, the vehicle insured with the appellant, bearing

Registration No.TN-63-AY-1122, which was driven in a rash and negligent manner, dashed against the deceased’s vehicle. Due to the impact, the said Daniel Rathnasingh sustained fatal injuries and died on the spot. Consequently, a case in Crime No. 232 of 2021 was registered against the driver of the offending vehicle.

3.Case of the Claimants:

The legal heirs of the deceased filed M.C.O.P. No. 321 of 2022 before the Tribunal claiming a compensation of Rs.75,00,000/-. In the claim petition, it was averred that the deceased was aged about 37 years at the time of the accident and was engaged in multiple businesses, namely, an offset press, photo studio, video studio, e-seva centre, and an ice cream parlour, and was earning a sum of Rs.70,000/- per month.

4.Defence of the Insurance Company:

The appellant/Insurance Company filed a counter statement denying the manner of the accident and contended that the deceased himself was responsible for the occurrence. It was further contended that the compensation claimed was excessive and exorbitant. In order to substantiate the claim, the claimants examined P.W.1 and P.W.2 and marked Exs. P1 to P7. On the side of the Insurance Company, neither oral nor documentary evidence was adduced.

5. **Findings of the Tribunal:**

The Tribunal, upon consideration of the entire evidence on record, fixed the negligence on the driver of the insured vehicle and awarded a total compensation of Rs.71,17,080/-, taking into account the Income Tax Returns of the deceased marked as Ex.P5 and fixing the monthly income at Rs.41,471/-, under the following heads:

Sl. No.	Head of Compensation	Amount (Rs.)
1	Loss of Dependency	69,67,080/-
2	Loss of Consortium (Rs.40,000/- each to 3 claimants)	1,20,000/-
3	Funeral Expenses	15,000/-
4	Loss of Estate	15,000/-
	Total	**71,17,080/-**

6. Aggrieved by the quantum of compensation, the Insurance Company has preferred the present appeal. It is pertinent to note that the appellants does not dispute the finding on negligence or liability, but challenges only the quantum of compensation awarded.

7.**Submissions on behalf of the Appellant**:

The learned counsel for the appellant/Insurance Company contended that the Tribunal erred in fixing the monthly income of the deceased based on the basis income tax returns without examining the auditor who prepared the same.

Reliance was placed on the judgment of the Hon'ble Supreme Court in ***K. Ramya v. National Insurance Company Limited*** (***Civil Appeal No. 7046 of 2022***), wherein it was held that in the absence of proper proof, including examination of the auditor, income tax returns cannot be relied upon to conclusively determine income. It was further contended that the income tax returns pertain to the assessment years during the period affected by the COVID-19 pandemic, during which business activities were severely impacted. Therefore, the income reflected therein cannot be taken as a reliable basis for determining the earning capacity of the deceased. On these grounds, the learned counsel sought reduction of the compensation.

8.<u>Submissions on behalf of the Respondents / Claimants:</u>

Per contra, the learned counsel for the claimants submitted that the judgment relied upon by the appellant would apply only in cases where there is contra evidence or serious dispute regarding the genuineness of the income tax returns. In the present case, the income tax returns were marked without objection, and no cross-examination was conducted on that aspect. Further, no contra evidence was adduced by the Insurance Company. It was further submitted that the Tribunal, in fact, adopted a conservative approach by fixing the monthly income at Rs.41,471/-, despite evidence suggesting higher earnings. Therefore, the claimants have preferred the cross-appeal seeking enhancement of compensation.

9. This Court has carefully considered the rival submissions made on either side and perused the materials available on record, including the documents filed in the typed set of papers.

10.**Discussion and Findings:**

10.1. P.W.1, the wife of the deceased, was examined to speak about the manner of the accident, the age, avocation and income of the deceased. Ex.P2 (Postmortem Certificate) was marked to establish the age of the deceased, and Ex.P5 (Income Tax Returns) was marked to substantiate the income. As per Ex.P2 and Ex.P5, the age of the deceased was fixed as 36 years, which has not been seriously disputed by the appellant/Insurance Company. P.W.1 has deposed that the deceased was engaged in multiple businesses such as an offset press, photo studio, video studio, e-seva centre and ice cream parlour. Though no independent documentary evidence was produced to substantiate each of the said businesses, the claimants have filed the Income Tax Returns of the deceased for a period of five years, namely from 2017 to 2022, under Ex.P5.

10.2. A perusal of Ex.P5 would show that the income of the deceased varied over the years, namely, Rs.2,87,807/- for the Assessment Year 2017–2018, Rs.2,69,221/- for the Assessment Year 2018–2019, Rs.3,08,479/- for the

Assessment Year 2019–2020, Rs.4,79,470/- for the Assessment Year 2020–2021 and Rs.4,97,660/- for the Assessment Year 2021–2022. The Tribunal, taking into account the average income reflected in the said returns, fixed the monthly income of the deceased at Rs.41,471/-. The learned counsel appearing for the appellant/Insurance Company contended that the said fixation is on the higher side and that the Income Tax Returns ought not to have been relied upon in the absence of examination of the auditor who prepared the same. This Court is not inclined to accept the said contention in *toto*. It is to be noted that the Income Tax Returns were marked without objection, and no serious challenge was made to their genuineness during cross-examination. Further, it is not the case of the Insurance Company that the said returns are fabricated or that the deceased had no such income. In the absence of any contra evidence, the Tribunal was justified in taking into consideration the Income Tax Returns for determining the income.

11. **Reassessment of Compensation:**

11.1. The judgment relied upon by the learned counsel for the appellant in ***K. Ramya v. National Insurance Company Limited*** would apply to cases where the Income Tax Returns are seriously disputed or where there is lack of foundational proof. In the present case, such circumstances do not arise. Therefore, the said decision does not advance the case of the appellant.

However, this Court, upon an overall consideration of the income reflected over the five assessment years, is of the view that a rounded figure of Rs.40,000/- per month would be a just and reasonable fixation of income instead of Rs. 41,471/- adopted by the Tribunal.

11.2. Accordingly, the monthly income of the deceased is re-fixed at Rs. 40,000/-. Adding 40% towards future prospects, the monthly income comes to Rs.56,000/-. After deducting 1/3rd towards personal expenses, the contribution to the family would be Rs.37,333/- per month. Applying the appropriate multiplier of 15, the loss of dependency is recalculated. The amounts awarded by the Tribunal under other conventional heads such as loss of consortium, funeral expenses and loss of estate are found to be reasonable and in accordance with settled principles and hence are confirmed. In view of the above modification, the total compensation awarded by the Tribunal at Rs. 71,17,080/- is reduced to Rs.68,70,000/-.

12.**Result**:

12.1. In the result, the Civil Miscellaneous Appeal filed by the Insurance Company is partly allowed. The total compensation is reduced from Rs. 71,17,080/- to Rs.68,70,000/- and the same is re-determined as follows:

Sl. No.	Head of Compensation	Amount awarded by the Tribunal	Re-quantified amount by this Court	Status
1	Loss of Dependency	69,67,080/-	67,20,000/-	reduced
2	Loss of Consortium (Rs. 40,000/- each to 3 claimants)	1,20,000/-	1,20,000/-	confirmed
3	Funeral Expenses	15,000/-	15,000/-	confirmed
4	Loss of Estate	15,000/-	15,000/-	confirmed
	Total	**71,17,080/-**	**68,70,000/-**	**reduced**

Thus, the compensation awarded under the head "Loss of Dependency" alone is modified, while the amounts awarded under other conventional heads are confirmed.

12.2. The appellants/Insurance Company is directed to deposit the modified award amount, along with interest and costs as ordered by the Tribunal, after deducting the amount already deposited, if any, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their respective shares, as apportioned by the Tribunal, in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

[N.A.V.,J.] & [K.K.R.K.,J.]
27.03.2026

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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To

1.The Motor Accident Claims Tribunal
and Additional Subordinate Judge of Tirunelveli.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

N.ANAND VENKATESH,J.
and
K.K.RAMAKRISHNAN,J.

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Judgment made in
C.M.A.(MD).No.412 of 2026

Dated: 27.03.2026