



CMA.(MD)Nos.499 and 1460 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.02.2026

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**
and
THE HONOURABLE MS.JUSTICE **R.POORNIMA**

CMA(MD)Nos.499 and 1460 of 2024
and
CMP(MD)No.6682 of 2024

(1)CMA(MD)No.499 of 2024:-

The Branch Manager,
National Insurance Company Limited,
Branch Office, D.No.63, Raji Plaza,
2nd Floor, West Prathaksinam Road,
Karur – 639 002.

: Appellant/2nd Respondent

Vs.

1. Visalatchi
2. Minor.Sivani
3. Minor.Rishi Vardan
4. Thanalakshmi
5. Renganathan

Minor respondents 2 and 3 are represented by their mother
natural guardian, 1st respondent

: Respondents 1 to 5/petitioners

6. Krishnaveni

: 5th Respondent/1st Respondent



CMA.(MD)Nos.499 and 1460 of 2024

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173

of the Motor Vehicles Act, 1988, to set aside the award and decree made in MCOP No.1625 of 2019, dated 05.09.2023 on the file of the Motor Accident Claims Tribunal/ III Additional District Court, Tirunelveli.

For Appellant : Mr.J.S.Murali

For Respondents : Mr.T.Selvakumaran – for R1 to R5

: Mr.B.Janarth Kumar – for R6

(2)CMA(MD)No.1460 of 2024:-

1.Visalatchi

2.Minor.Sivani

3.Minor.Rishi Vardan

4.Thanalakshmi

5.Renganathan

Minor respondents 2 and 3 are represented by their mother/
natural guardian, 1st respondent

: Appellants/petitioners

Vs.

1.Krishnaveni

2.The Branch Manager,
National Insurance Company Limited,
Branch Office, D.No.63, Raji Plaza,
2nd Floor, West Prathaksinam Road,
Karur – 639 002.

: Respondents/Respondents



CMA.(MD)Nos.499 and 1460 of 2024

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree made in MCOP No.1625 of 2019, dated 05.09.2023 on the file of the Motor Accident Claims Tribunal/ III Additional District Court, Tirunelveli.

For Appellants : Mr.T.Selvakumaran

For 1st Respondent : Mr.B.Janarth Kumar

For 2nd Respondent : Mr.J.S.Murali

COMMON JUDGMENT

(Common Judgment of the Court was delivered by the Hon'ble
R.POORNIMA.J)

Feeling aggrieved by the apportionment of negligence in the ratio of 50:50 and award of compensation of Rs.53,90,804/- passed in M.C.O.P.No.1625 of 2019 for the death of Saravanan, who was a Business Development Executive, Appellant-National Insurance Company, insurer of the Maruti ECCO Car TN-47-AB-8265 has filed CMA(MD)No.499 of 2024.

2.Feeling dissatisfied with the quantum of compensation, Claimants have filed CMA(MD)No.1460 of 2024 for enhancement of compensation granted in MCOP No.1625 of 2019.



3. Since common points arise for consideration, both appeals were taken up together and shall stand disposed of by this common judgment.

4. The facts in brief:-

On 17.10.2015 at about 6.30 p.m., the deceased Saravanan was driving a Ford Fiesta Car bearing registration No.TN-72-AB-4556 from west to east on the left side of Trichy-Karur National Highways. When the Car was nearing Kumaramangalam Bus stop, at that time, a Maruti ECCO Car bearing registration No.TN-47-AB-8265 belonging to the 1st respondent insured with the 2nd respondent came from the opposite direction with excess passengers i.e., from east to west in a rash and negligent manner came to the wrong side and hit against the deceased Car. As a result of which, deceased Saravanan sustained serious head injuries. Immediately, he was taken to Kauvery Hospital, Trichy and took treatment as inpatient from 18.10.2015 to 21.11.2015 where the deceased after best treatment went into coma due to severe brain injury and then shifted to the Maruti Hospital and then Sri Venkateshwara Hospital, Trichy. Thereafter, he has not recovered from coma and died on 17.08.2016 due to brain injury sustained in the accident.



5. Over the occurrence, a case in Crime No.716 of 2015 was registered by the Kuzhithalai Police Station for the offences under Sections 279, 337, 338 and 304(A) of IPC against the deceased.

6. At the time of the accident, the deceased Saravanan was aged about 32 years and was working as a Business Development Executive in Hindustan Unilever Limited at Coimbatore and earning a sum of Rs.57,263/- per month. Seeking compensation amount of Rs.2,00,00,000/-, the legal heirs of the deceased Saravanan, filed the claim petition.

7. The appellant–Insurance Company filed a counter affidavit disputing the manner of accident, negligence, age, income of the deceased and its liability to pay compensation. It was contended that the accident occurred solely due to the negligence of the deceased, who allegedly drove the Car in a rash manner without adhering to traffic rules.

8. Before the Tribunal, on the side of the claimants, 7 witnesses were examined as P.W.1 to P.W.7 and 33 documents were marked as Exs.P1 to P33. On the side of the Respondents, 3 witnesses were examined as R.W.1 to R.W.3 and 16 documents were marked as Exs.R1 to R16.



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9. Upon consideration of the oral and documentary evidence, the Tribunal held that the accident occurred due to the negligence of both the drivers. Accordingly, the Tribunal held that the owner of the Maruti ECCO Car bearing Registration No.TN-47-AB-8265 and its insurer, National Insurance Company Ltd., are jointly and severally liable to pay the compensation of Rs.1,07,36,232/-, apportioning the liability in the ratio of 50:50. Consequently, a sum of Rs.53,90,804/- was awarded to the claimants in MCOP No.1625 of 2019.

10. The learned counsel appearing for the appellant-Insurance Company in CMA(MD) No.499 of 2024 submitted that the award passed by the Claims Tribunal is contrary to law, the weight of evidence and the probabilities of the case.

11. According to the learned counsel, the Tribunal erred in awarding excessive compensation to the claimants without properly appreciating the factual and legal aspects of the case. Placing reliance on the decision of the Hon'ble Supreme Court in ***United India Insurance Co. Ltd. Vs. Shila Dutta & Others [2011 (2) TNMAC 481 (SC)]***, it was contended that the appellant-Insurance Company need not obtain permission under Section 170 of the Motor Vehicles Act to contest the claim on all grounds.



12. It was further contended that the deceased himself was the tort-feasor, as he drove the Ford Fiesta Car in a rash and negligent manner and dashed against the Maruti ECCO Car insured with the appellant, resulting in the death of Manikandan and Shanmugavel and injuries to other occupants. Therefore, the claimants are not entitled to compensation, since a tort-feasor cannot claim compensation for his own wrong. It was also submitted that the FIR and charge sheet were filed against the deceased driver and the same were not challenged by the claimants before any higher authority or Court.

13. According to the learned counsel, the Tribunal failed to properly consider the evidence of RW1 to RW3 and the documents marked as Exs.R1 to R16, including the rough sketch, injury certificates and the Motor Vehicle Inspection Reports. The alleged eyewitness (PW2) is only a chance witness and was neither the complainant nor cited as a witness in the police charge sheet. Despite these materials, the Tribunal erroneously apportioned negligence in the ratio of 50:50 between the deceased and the driver of the insured vehicle, which is perverse and without any basis.



14. The learned counsel also challenged the quantum of compensation by contending that the Tribunal fixed the monthly income of the deceased at Rs.65,917/- and added 40% towards future prospects, but deducted only 20% towards income tax, whereas 30% ought to have been deducted, since the annual income exceeded Rs.10,00,000/- as per the applicable income tax slab for the assessment year 2017–2018. It was further submitted that the Tribunal awarded excessive compensation under various heads and also granted interest at 7.5% per annum, which is on the higher side. Hence, the learned counsel prayed for allowing CMA(MD)No.499 of 2024.

15. Per contra, the learned counsel appearing for the appellants/claimants in CMA(MD) No.1460 of 2024 contended that the accident occurred only due to the rash and negligent driving of the driver of the Maruti ECCO Car owned by the first respondent. It was submitted that the Tribunal failed to properly consider the Motor Vehicle Inspector's Report relating to the Maruti ECCO Car (Ex.P12), which shows that most of the damages were on the right side of the vehicle, thereby indicating that the vehicle had come to the wrong side of the road and attempted to move back to its side in order to avoid a head-on collision. Therefore, the Tribunal ought to have fixed the entire negligence on the driver of the Maruti ECCO car.



16. It was further contended that the Tribunal ought not to have relied upon the FIR, since the Author of the FIR was not examined before the Tribunal. It was also submitted that the Tribunal failed to award compensation under the head of loss of love and affection, and therefore the claimants prayed for enhancement of compensation by allowing CMA(MD)No.1460 of 2024.

17. Heard the learned counsel appearing on either side and perused the materials available on record.

18. With regard to negligence, the claimants contended that on 17.10.2015 at about 6.30 p.m., the deceased Saravanan was driving a Ford Fiesta car bearing Registration No.TN-72-AB-4556 on the Trichy–Karur National Highway, near Kumaramanagalam Bus Stop, proceeding from west to east on the left side of the road. At that time, the Maruti ECCO Car bearing Registration No.TN-47-AB-8265, owned by the first respondent and insured with the second respondent, allegedly came from the opposite direction at high speed, in a rash and negligent manner, on the wrong side of the road and collided with the car driven by the deceased. It was further alleged that though the deceased was treated for the injuries sustained in the accident, he later succumbed to the injuries on 17.08.2016.



19. However, on careful examination of the FIR (Ex.R1), it is seen that the complaint was lodged by Anusiya, an occupant of the ECCO Car, based on which Crime No.716 of 2015 was registered by Kulithalai Police Station under Sections 279, 337, 338 and 304-A IPC. In the said complaint, it was stated that the Ford Fiesta Car driven by the deceased Saravanan came from the opposite direction at high speed, without blowing the horn and in a negligent manner, and dashed against the ECCO Car, thereby causing the accident. Thus, the FIR itself was registered against the deceased Saravanan.

20. Further, PW2 (Prakash), who claimed to be an eyewitness, deposed that he witnessed the accident and informed the 108 Ambulance Service.

21. During cross-examination, RW1 admitted that the vehicle had been given to his relatives for their personal use to travel to Trichy and that they had engaged a driver to operate the vehicle. He also stated that the accident occurred as a head-on collision between the two vehicles and that the driver of the opposite vehicle, namely Saravanan, later died due to the injuries sustained.



22. The Motor Vehicle Inspector's Reports (Exs.R11 and R12)

relating to both vehicles reveal that the front portions of both vehicles were damaged, indicating a head-on collision. Further, the rough sketch (Ex.R2) shows that the accident occurred in the middle of the road.

23. In view of the above evidence, the Tribunal concluded that the accident occurred due to a head-on collision between the two vehicles, and therefore both the deceased Saravanan and the driver of the first respondent's vehicle were responsible for the accident. Accordingly, the Tribunal apportioned 50% contributory negligence on the deceased and 50% on the driver of the first respondent's vehicle which is proper.

24. With regard to the quantum of compensation, the Tribunal observed that, as per the judgment of the Hon'ble Supreme Court in ***Sarla Verma v. Delhi Transport Corporation [2009 (2) TNMAC 1 (SC)]***, while determining compensation in a motor accident death case, the Court must consider three essential factors, namely (i) the age of the deceased, (ii) the income of the deceased, and (iii) the number of dependants, along with appropriate additions and deductions while calculating the loss of dependency.



25. Regarding the income, the Tribunal fixed the monthly income of the deceased at Rs.52,734/- and added 40% towards future prospects, thereby arriving at a monthly income of Rs.73,828/-. Considering the age and nature of employment of the deceased, the fixation of income appears to be reasonable. The multiplier adopted by the Tribunal is also in accordance with the guidelines laid down in ***Sarla Verma's case*** and hence does not call for interference.

26. With regard to spousal consortium, the Tribunal awarded a sum of Rs.70,000/- to the wife of the deceased, which appears to be on the higher side. As per the law laid down by the Hon'ble Supreme Court in ***National Insurance Company Ltd. v. Pranay Sethi [(2017) 16 SCC 680]***, the spouse of the deceased is entitled only to Rs.40,000/- under this head. Further, the Tribunal has not awarded any amount towards parental consortium to the children and filial consortium to the parents of the deceased. As per the decision of the Hon'ble Supreme Court, the claimants 2 and 3 are entitled to Rs.40,000/- each towards parental consortium, and the claimants 4 and 5 are entitled to Rs.40,000/- each towards filial consortium. Now, the Honble Apex Court comprising three Judges held in the case of ***United India Insurance Company Ltd., Vs. Satinder Kaur alias Satwinder Kaur and other [(2021)11 SCC 780]***,



that reasonable figures on conventional heads namely, loss of estate, loss of consortium and funeral expenses should be enhanced by 10% every three years. So, by applying the above said dictum, this Court awards **Rs.44,000/-** towards spouse consortium, **Rs.44,000/-** each towards parental and filial consortium, **Rs.16,500/-** each under the head of loss of estate and funeral expenses. The rate of interest fixed by the Tribunal at 7.5% per annum is confirmed.

27. Accordingly, the compensation awarded by the Tribunal is re-quantified as follows:-

Head	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Loss of dependency	1,06,31,232/-	1,06,31,232/-	confirmed
Spouse Consortium	70,000/-	44,000/-	reduced
Parental Consortium	-	88,000/-	Granted
Filial Consortium	-	88,000/-	Granted
Funeral expenses	15,000/-	16,500/-	Enhanced
Loss of estate	10,000/-	16,500/-	Enhanced
Transportation	10,000/-	10,000/-	confirmed
Total	1,07,36,232/-	1,08,94,232/-	modified



28. Therefore, in total, the Tribunal fixed the compensation at Rs.1,08,94,232/-. Since, the composite negligence as against the deceased was equally at 50%, the appellant/2nd respondent is directed to pay a sum of **Rs.54,47,116/-** towards compensation to the claimants with interest at the rate of 7.5% per annum from the date of petition to till the date of realization of the amount.

29. In the result, both the Civil Miscellaneous Appeals are **disposed of with the above modification**. The appellant-Insurance Company is directed to deposit the modified amount of **Rs.54,47,116/-** to the credit of M.C.O.P.No.1625 of 2019, on the file of the Motor Accident Claims Tribunal, III Additional District Court, Tirunelveli, less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the major claimants are permitted to withdraw their respective shares as per the apportionment of the Tribunal. In so far as the share of the minors/ respondents 2 and 3 are concerned, the first respondent, the mother/guardian of the minors, is permitted to withdraw the interest accrued thereon once in three months



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for the welfare of the minors, till they attain majority. No costs.

Consequently, connected civil miscellaneous petition is closed.

(G.K.I.,J) (R.P.,J)
06.02.2026

Index: Yes/No
Internet: Yes/No
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To,

1. The Motor Accident Claims Tribunal/
III Additional District Court,
Tirunelveli.
2. The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN., J
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