



C.M.A.(MD)No.873 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.02.2026

Pronounced on : 18.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A.(MD)No.873 of 2022

1.Karuppaiya,
S/o. Ayyavu,
Pappamanai, Vadakadu and Post,
Alangudi Taluk,
Pudukkottai District.

2.Malarmani,
W/o.Karuppaiah,
Pappamanai, Vadakadu and Post,
Alangudi Taluk,
Pudukkottai District.

3.Santha,
W/o.Manimozhi,
Thadimanai, Anavayal Post,
Alangudi Taluk,
Pudukkottai District.

4.Sathya,
W/o.Bose,
Kothamangalam Centre,
Kothamangalam Post,
Alangudi Taluk,
Pudukkottai District.

... Appellants/Petitioners

Vs.

1.Govindhan,
S/o. Natesan,
Malavarayanpatti Village,
Mangadu Post, Alangudi Taluk,
Pudukkottai District.



C.M.A.(MD)No.873 of 2022

2.The Branch Manager,
National Insurance Company Limited,
Pudukottai.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount awarded in M.C.O.P.No.196 of 2017 on the file of the Motor Accident Claims Tribunal and Additional District Court, Pudukkottai, dated 03.03.2020.

For Appellants	: Mr.K.C.Maniyarasu
R1	: Exonerated vide Order, dated 16.12.2022
For R2	: Ms.P.Malini

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the Award, dated 03.03.2020 passed in M.C.O.P.No.196 of 2017 on the file of the Motor Accident Claims Tribunal/Additional District Court, Pudukkottai.

2.The petitioners/claimants in M.C.O.P.No.196 of 2017 are the appellants herein. The petitioners/claimants are the dependents of the deceased Shanmugam, who died in a motor traffic accident. The respondents herein are respondents in the claim petition.



3. For the sake of convenience, the parties as arrayed in M.C.O.P.No.196 of 2017 are adopted hereunder.

4. The brief facts of the case:

The deceased Shanmugam was riding a Hero Honda motorcycle bearing registration No.TN 55 S 6957 from Pudukottai to Pattukottai main road from east to west on 11.12.2016. At about 7.30 p.m., when he was riding near Thulukka Viduthi Vellachi Aatha Kovil on the left side of the said road, a JCB bearing registration No.TN 55 Q 9930, belonging to the first respondent, coming from the opposite direction, driven by its driver in a rash and negligent manner and dashed against the two wheeler. Due to the impact, the deceased was thrown away and died due to multiple fatal injuries. The deceased Shanmugam was a bachelor who had completed ITI Welding. He was working as a welder and was earning Rs.20,000/- p.m. The petitioners are depending on the income of the deceased Shanmugam. FIR in Crime No.255 of 2016 U/s.279 and 304(A) of IPC was registered against the driver of the first respondent by Thiruchitrambalam Police Station. The JCB of the first respondent was insured with the second respondent. Hence, the petitioners filed a claim petition seeking compensation of Rs.40,00,000/-.



5.The 2nd respondent/Insurance Company objected the claim petition by contending that the first respondent's vehicle was not driven by its driver in a rash and negligent manner. The deceased, without a driving license, in a drunken condition, was riding his motorcycle and due to his negligence, only the accident occurred. Moreover, the first respondent's driver was also not in possession of a valid driving license. Hence, the petitioners are not entitled to claim from the second respondent.

6.Before the Tribunal, both sides adduced oral and documentary evidence. The petitioners examined three witnesses as P.W.1 to P.W.3 and marked eight documents as Ex.P.1 to Ex.P.8. On the second respondent's side, three witnesses were examined as R.W.1 to R.W.3 and three documents were marked as Ex.R.1 to Ex.R.3.

7.After hearing both sides and after considering the evidence, the Tribunal has held negligence on the driver of the JCB/first respondent. The Tribunal has arrived at a total compensation of Rs.10,10,800/- and directed the 2nd respondent/Insurance Company to pay the amount to the petitioners with interest and cost and to recover the same from the first respondent, as the driver of the first respondent had no valid driving license and violated the policy condition.



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

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

10. The learned counsel for the petitioners has submitted that the deceased Shanmugam was working as a welder. The deceased was earning Rs.13,500/- as per Ex.P.5 - Salary Certificate. However, the Tribunal has fixed the notional income at Rs.7,000/- p.m., which is meagre and the same has to be enhanced. The Division Bench of this Court has adopted an approach considering the cost inflation index for the subsequent years and thereby the income of the deceased has to be taken as Rs.12,800/-. The Tribunal has awarded the consortium of only Rs.40,000/- to all the claimants instead of awarding each claimant. In other respects, the Tribunal has correctly added future prospects as 40% and has correctly taken the multiplier as '16'. In support of his argument regarding income, the learned counsel has relied on the citation of this Court reported in **2019 (1) TN MAC 54 (DB)** and the order of this Court passed in **C.M.A.No.687 of 2021 in Renuka /v/ Santhamani case**.



WEB COPY

11.The learned counsel for the 2nd respondent/Insurance Company has contended that in the absence of any proof of income, the Tribunal has properly appreciated the evidences and correctly observed in its order that the claimants have not stated in their petition about the employer name under whom the deceased was working. Hence, the Tribunal has correctly fixed the notional income at of Rs.7,000/- p.m. However, the 2nd respondent/Insurance Company concedes to fix Rs.8,000/- as the notional income of the deceased. In other respects of the award, the Tribunal has correctly awarded the compensation.

12.Considered both sides arguments and perused the records of the case. There is no dispute by both sides that the accident took place due to the rash and negligent driving of the first respondent's driver and that the deceased was a bachelor who was aged 31 at the time of the accident. The only dispute is regarding the income of the deceased and the quantum of award.

13.On hearing both sides and on perusal of records, it is clear that the petitioners state that the deceased was working as a welder and the same was not strongly disputed by the respondents. Though the petitioners produced



Ex.P.5 - Salary Certificate issued by P.W.3, the Tribunal has not accepted the same for the reason that the petitioners/claimants have not mentioned about the name of the employer in the claim petition. The petitioners have produced the salary certificate through P.W.3, which is an afterthought. The Tribunal has fixed notional income as Rs.7,000/-. The petitioners in this appeal have sought fixation of income as Rs.13,500/- on the basis of Ex.P.5 - Salary Certificate. Still, the petitioners have not produced convincing reason for not mentioning the particulars of the employer in the claim petition. Moreover, they have not produced any other material to show that the deceased completed the ITI Welder course, and he was working under any employer at the time of the accident. The deceased was a bachelor. At this juncture, the 2nd respondent/Insurance Company has consented to fix the notional income as Rs.8,000/- p.m. The petitioners/claimants have also not raised any strong objection. Therefore, this Court is inclined to fix the notional income as Rs.8,000/- p.m.

14.Both sides have not raised any question with regard to 1/2 of the deduction towards the own expenses of the deceased, as he was a bachelor and also 40% future prospects as fixed by the Tribunal. Applying the same, the income of the deceased after adding 40% prospects is Rs.11,200/- (Rs.8,000 + Rs.3,200 (40% of Rs.8,000)). After deducting 1/2 towards



personal expenses of the deceased, the monthly loss of income to the dependents of the deceased would be Rs.5,600/-. Considering the age of the deceased as 31, the multiplier '16' is correct as per **Sarala Verma** case. Therefore, the loss of income is arrived as Rs.5,600 x 12 x 16 = Rs.10,75,200/-.

15.While considering the loss of consortium, the Tribunal has only awarded Rs.40,000/- 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 dependent of the deceased is entitled to consortium. There is no dispute that the petitioners are LR's of the deceased Shanmugam, who was a bachelor. Therefore, all the petitioners/claimants are entitled to Rs.40,000/- each towards loss of love and affection. It is not disputed by the learned counsel for the respondents.

16.It is not disputed by both sides in respect of the sum of Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.



17. Thus, this Court holds that the total compensation payable to the appellants/petitioners/claimants in MCOP.No.196 of 2017 is as follows:

Sl. No.	Description	Amount awarded by this Court
1.	Loss of income (Rs.5,600/- x 12 x 16)	Rs.10,75,200/-
2.	Towards funeral expenses	Rs. 15,000/-
3.	Loss of Estate	Rs. 15,000/-
4.	Loss of love and affection for petitioners 1 to 4 (Rs.40,000/- x 4)	Rs. 1,60,000/-
	Total	Rs.12,65,200/-

Therefore, the petitioners 1 to 4/claimants in MCOP.No.196 of 2017 are entitled to a total of Rs.12,65,200/-. Therefore, to that extent the compensation awarded by the Tribunal is set aside and fixed as Rs.12,65,200/-. In respect of apportionment, the petitioners 1 and 2 are entitled to Rs.4,82,600/- each and the petitioners 3 and 4 are entitled to Rs.1,50,000/- each. In other respects, the award of Tribunal has to be confirmed.

18. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is increased from Rs.10,10,800/- to Rs.12,65,200/- (Rupees Twelve Lakhs Sixty Five Thousand and Two Hundred only).



(iii)The appellants 1 & 2/claimants 1 & 2/parents of the deceased are entitled to receive a sum of Rs.4,82,600/- (Rupees Four Lakhs Eight Two Thousand and Six Hundred only) each and the appellants 3 & 4/claimants 3 & 4/siblings of the deceased are entitled to receive a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) each with proportionate interests and costs.

(iv)The 2nd respondent/Insurance Company is directed to deposit the entire compensation amount of Rs.12,65,200/- (Rupees Twelve Lakhs Sixty Five Thousand and Two Hundred only), if already not deposited or less the amount already deposited, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.196 of 2017 on the file of the Motor Accident Claims Tribunal/Additional District Court, Pudukkottai within a period of four weeks from the date of receipt of a copy of this order. The appellants/claimants are not entitled for interest for default period if any. The 2nd respondent/Insurance Company is entitled to recover the same from the first respondent as ordered by the Tribunal.

(v) On such deposit being made by the 2nd respondent/Insurance Company, the claimants/petitioners 1 to 4 herein are permitted to withdraw



C.M.A.(MD)No.873 of 2022

their entire share amount as apportioned by this Court with proportionate interest and cost by filing appropriate application before the Tribunal, less the amount already withdrawn if any.

18.03.2026

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

To

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



WEB COPY



C.M.A.(MD)No.873 of 2022

P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
C.M.A.(MD)No.873 of 2022

18.03.2026