



C.M.A(MD) No.353 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 17.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A(MD) No.353 of 2026

and

CMP(MD)No. 3314 of 2026

The Branch Manager
M/s.Cholamandalam MS General Insurance company Ltd.,
No.446/2, New No.330, PH High Road,
EVR Periyar High Court,
Arumbakkam, Chennai

... Appellant

-VS-

1. Karmegam
2. Divya
3. Minor. Gokulan
(Third respondent rep. by his mother R1)
4.M.Jothi
5. S.Sadasivan
6. S.Kandammal

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the order made in MCOP No. 842 of 2020 dated 09.08.2023 on the file of the Motor Accident Claims Tribunal cum Special District Court to deal with MCOP cases, Tiruchirappalli.



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For Appellant : Mr.N.Shyllappakalyan

For R1 to R3 : Mr.N.Padmaboopathy

For R6 : Mr.V.S.Rishikesh

J U D G M E N T

(Judgment of the Court was delivered by P.DHANABAL, J.)

This Civil Miscellaneous Appeal has been filed as against the order passed by the Motor Accident Claims Tribunal cum Special District Court to deal with MCOP cases, Tiruchirappalli., in MCOP No. 842 of 2020 dated 09.08.2023.

2. The appellant is the second respondent in the claim petition and the respondents 1 to 3 herein have filed a claim petition for compensation for a sum of Rs 75 lakhs for the death of one Kumar in a road accident. The Tribunal awarded a sum of Rs.45,24,300/- with interest @ 7.5% per annum from the date of petition till the date of realization by directing the second respondent to pay the amount. Aggrieved by the said award, the second respondent/Insurance company has preferred this appeal.



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3. The respondents 1 to 3 herein have filed a petition before the Tribunal alleging that the deceased Kumar is the husband of the first petitioner and father of the petitioners 2 and 3 and son of the respondents 3 and 4 in the original petition. While so, on 13.05.2020 at about 22.30 hrs, the said Kumar was proceeding on a two wheeler bearing Reg.No.TN-48-AH-6527 on the Madurai-Chennai bypass road opposite to EB office Manapuram and at that time, a vehicle bearing Reg.No.TN-10-BF-6289 which belongs to the first respondent insured with the second respondent came in a rash and negligent manner and dashed against the motor cycle driven by Kumar, as a result of which, the said Kumar was thrown out from the vehicle and he sustained injuries all over the body and he died on the way to hospital. The accident took place due to negligence on the part of the driver of the first respondent and already a case was registered in Crime No.61 of 2010 as against the driver of the first respondent. The deceased Kumar was employed as Village Administrative Officer and he was drawing a salary of Rs.33,314/- per month and also receiving a sum of Rs.10,000/- as bonus and therefore, the petitioners claimed Rs.75 lakhs as compensation.



4. The second respondent before the Tribunal who is the appellant herein has filed a counter denying averments made in the petition.

According to the second respondent, the accident took place due to negligence on the part of the deceased and the first respondent in the main petition drove the vehicle in the normal speed by observing the traffic rules and the deceased only suddenly crossed the road and thereby, the accident occurred. The driver of the first respondent had no valid licence at the time of accident and thereby, the second respondent is not liable to pay the compensation. The second respondent also denied the age, occupation and income of the deceased and therefore, without prejudice the above contention raised by the respondent, the claim made is highly excessive.

5. The respondents 3 and 4 also filed counter stating that the deceased Kumar is their son and he died in the road accident on 13.05.2020. The accident occurred due to the negligent driving on the part of the driver of the first respondent and being the legal dependants of the deceased, they are also entitled for compensation.



6. Based on the above said pleadings, the Tribunal framed the following points for determination:

a) Whether the accident occurred due to the rash and negligent driving of the driver of the first respondent vehicle bearing Reg.No.TN 01 AT 8758? whether the deceased contributed to the accident as alleged by the second respondent?

b) Whether the petitioners are entitled to get compensation as prayed for ?

c) What is the quantum of compensation payable to the petitioners?

d) To what relief?

7. Before the Tribunal, on the side of the petitioners, P.W.1 to P.W.3 were examined and exhibits ExPs 1 to 17 were marked. On the side of the respondents, RW1 was examined, but no document was marked, however through the witnesses, Ex.X.1 and Ex.X.3 were marked.

8. Based on the evidence adduced on both sides, the Tribunal has fixed the negligence on the driver of the first respondent and awarded a sum of Rs.45,34,300/- as compensation .



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9. Aggrieved by the said award of the Tribunal, the second respondent who is the insurer of the vehicle, has preferred this appeal on the ground of negligence and also challenging the quantum of compensation.

10. The learned counsel appearing for the appellant would submit that the respondents 1 to 3 who are wife and children of the deceased/Kumar who died in a road accident have filed claim petition for compensation to the tune of Rs.75 lakhs. The appellant is the insurer of the vehicle which involved in the accident. In fact, the fourth respondent herein is the owner of the vehicle bearing Reg.No.TN-48-AH-6527 and the same was insured with the appellant/insurance company. The said vehicle involved in the accident on 13.05.2020. In fact, the accident took place due to negligence on the part of the deceased who crossed the road without minding the proceeding vehicle and thereby, he himself invited the accident and there is no negligence on the part of the driver of the fourth respondent/first respondent. The claimants who are the respondents 1 to 3 herein have not proved the



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negligence on the part of the driver of the fourth respondent/first respondent. That apart, on the side of the respondents, they have examined RW.1 and Exs.P.4 and P.5 Motor Vehicle Inspection Reports clearly shows the damage of the vehicle and thereby, the Court can easily infer that the negligence is on the part of the deceased. Moreover, the Tribunal awarded excess compensation. The Tribunal failed to consider that after the demise of deceased, the wife of the deceased is receiving family pension and thereby, the amount awarded by the Tribunal is too excess and therefore, the appeal is liable to be allowed.

11. The learned counsel appearing for the respondents 1 to 3 would submit that the deceased died in the road accident and petitioners 1, 2, 3, 5 and 6 are the dependents of the deceased and the accident took place due to negligence on the part of the driver of the fourth respondent/first respondent. In order to prove the negligence on his part, claimants have examined P.W.3 eyewitness to the occurrence and the First Information Report is also registered as against the driver of the fourth respondent/first respondent. In order to rebut the evidence of PW.3 on the negligence aspect, the appellant/insurance company



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failed to examine any witnesses. Therefore, the petitioners/claimants have proved the negligence on the part of the driver of the fourth respondent/first respondent's vehicle and the Tribunal also after analyzing the evidence correctly fixed the negligence on the part of the driver of the fourth respondent/first respondent.

11.1. So far as quantum is concerned, the deceased was working as Village Administrative Officer and drawing a salary of Rs.33,314/- per month. At the time of accident, the deceased was aged about 46 years and the Tribunal has adopted correct multiplier and awarded reasonable amount. The Tribunal also deducted 10% of the income tax and added 30% towards future prospectus and thereby, awarded reasonable amount. Therefore, the award passed by the Tribunal is just and fair compensation and hence, the appeal is liable to be dismissed.

12. This Court has heard both sides and perused the materials available on record.



13. Upon perusing the pleadings and records and upon hearing both sides, the points for determination in this appeal are:

- a) Whether the accident took place due to negligence on the part of the driver of the fourth respondent/first respondent which vehicle was insured with the second respondent?*
- b) Whether the compensation awarded by the Tribunal is just and fair compensation?*

14. For sake of convenience and brevity, the appellant herein will be referred to as second respondent and the respondents 1 to 3 will be referred as petitioners and the fourth respondent will be referred as first respondent and the respondents 5 and 6 will be referred as respondents 3 and 4 as referred in the Tribunal.

15. In this case, there is no dispute in respect of involvement of vehicle in the accident. According to the petitioners, the deceased died due to accident which occurred due to rash and negligent driving of the first respondent. The second respondent who is the insurer of the first respondent vehicle denied the negligence on the part of the first



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respondent vehicle and therefore, the petitioners have to prove the negligence on the part of the driver of the first respondent vehicle. In order to prove the same, they have examined P.W.3 who is the eyewitness to the occurrence and he categorically deposed about the negligence on the part of the driver of the first respondent and the First Information Report/Ex.P.1 was registered as against the driver of the first respondent. Therefore, the petitioners established that the accident took place due to negligence on the part of the driver of the first respondent. In order to rebut the evidence of the petitioners side, the second respondent failed to adduce any contra evidence and in the absence of contra evidence, the evidence of P.W.3 and Ex.P.1 are reliable and acceptable. Therefore, the petitioners have proved the negligence on the part of the driver of the first respondent. The Tribunal also after analyzing the evidence correctly came to conclusion that the accident took place due to negligence on the part of the driver of the first respondent.

16. So far as quantum is concerned, there is no dispute that the deceased was aged about 46 years and the first petitioner is the wife and



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the petitioners 2 and 3 are the children and the third respondent is the father and the fourth respondent is the mother of the deceased and the Tribunal has dismissed the petition as against the third respondent who is the father of the deceased. The respondent has not disputed the age of the deceased and the deceased was working as Village Administrative Officer and thereby, he was earning a sum of Rs.32,375/- per month and the same was also proved through P.W.2 and Ex.X.2. The Tribunal also fixed the age of the deceased as 46 years and taken the salary of the deceased as Rs.32,378/- as per the document. Further added 30% of the salary towards future prospectus . Since there are four dependants 1/4th income of the deceased was deducted by the Tribunal for personal expenses of the deceased. The Tribunal also deducted professional tax and 10% towards income tax and adopted correct multiplier of '13', and calculated the award amount correctly.

17. Further, the Tribunal awarded loss of consortium of Rs. 40,000/- and Rs.60,000/- for loss of love and affection, Rs. 15000/- towards funeral expenses and Rs.15000/- for loss of estate. The Tribunal ought to have awarded loss of consortium for all the claimants and



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cannot award separately under the head of love and affection and therefore, award amount under the head of loss of love and affection can be adjusted towards the loss of consortium. In other heads, the Tribunal has awarded reasonable amount as per the decision of the Honourable Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***2017 ACJ 2700*** and therefore, the amount awarded by the Tribunal is just and fair compensation and the points are answered accordingly.

18. In view of the above said discussion, this Court is of the opinion that the award passed by the Tribunal is in order and there is no illegality or infirmity in the award passed by the Tribunal and thereby the same warrants no interference and this Court finds no merit in the appeal and the same is liable to be dismissed.

19. In the result, this Civil Miscellaneous Appeal stands dismissed. The appellant/second respondent insurance company is directed to deposit the entire amount within a period of six weeks from the date of receipt of a copy of this order. The claimants are at liberty to withdraw



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the said amount as per the apportionment made by the Tribunal.

Consequently connected miscellaneous petition stands closed.

[N.A.V.,J] [P.D.B.,J]
17.03.2026

Internet : Yes / No

Index : Yes / No

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To

1. The Motor Accident Claims Tribunal cum Special
District Court to deal with MCOP cases, Tiruchirappalli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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**N. ANAND VENKATESH, J.
and
P.DHANABAL, J.**

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