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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30-10-2026

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

AND

THE HON'BLE MR.JUSTICE RAJNISH PATHIYIL

CMA(MD) No. 207 of 2023

CNR:{HCMD011271522022}

AND

CMP(MD) No. 2300 of 2023

The Oriental Insurance Company Limited,
Having its Office at Pulimottil Building,
P.B. 17, Post Office Junction,
Punalur,
Kerala State. ..Petitioner(s)

Vs

1. Ravi
2. Pitchammal
3. S. Suresh
4. Ranjith ..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act to set aside the order of the Motor Accidents Claims Tribunal Cum Additional District Court, (FTC), Tenkasi made in M.C.O.P. No. 36/2020 dated 20/09/2022 and allow this appeal with cost.

For Petitioner(s) :M/s E.Chandrasekaran

For Respondent(s) :M/s. P. Balasubramanian, for R-2

No appearance – R-1, R-3 & R-4

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JUDGMENT

(Judgment of the Court was delivered by RAJNISH PATHIYIL J.)

The challenge in the appeal is to the order dated 29.05.2022 in M.C.O.P. No. 36 of 2020 on the file of the Motor Accidents Claims Tribunal, Tenkasi (Additional District Court, FTC, Tenkasi).

2. The parties are referred to according to their respective status before the Tribunal to avoid any ambiguity.

3. The brief averments set out in the claim petition are as follows: On 29.05.2019, at about 4.30 p.m., the victim, namely, Shanmugapriyan (deceased), was riding a Honda Activa motorcycle bearing Registration No. TN 76 E 2064, with a pillion rider, along the Elathur–Sengottai Road from south to north, keeping to the left side of the road and observing the traffic rules and regulations. At that time, the first respondent, Suresh, was riding a motorcycle bearing Registration No. KL 25 M 286 from north to south in the opposite direction. The said motorcycle belonged to the second respondent, Ranjith, and was insured with the third respondent. It is alleged that the first respondent rode the motorcycle in a rash and negligent manner and hit the motorcycle ridden

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by the deceased, as a result of which both the deceased and the pillion rider were thrown off their motorcycle. The deceased sustained serious injuries all over his body and was initially taken to the Elathur Government Hospital. He was thereafter referred to the Tenkasi Government Hospital and subsequently to the Tirunelveli Government Hospital for further treatment, where he succumbed to his injuries on 31.05.2019.

4. It is contended that the accident occurred solely due to the rash and negligent riding of the motorcycle by the first respondent. Hence, the legal heirs of the deceased, Shanmugapriyan, filed the claim petition seeking compensation.

5. The claim petition was contested by the third respondent/insurance company, whereas the first and second respondents remained ex-parte before the Tribunal. The Tribunal framed the following three issues for consideration:

1. Whether the accident was occurred due to rash and negligent riding of the 1st respondent?
2. Whether the petitioners are entitled to get any compensation?
3. What is the quantum of the compensation that the petitioners are entitled to?
4. Who is liable to pay compensation?

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6. With regard to the first issue, P.W.1 was examined, and Exs. P-1 to P-10 were marked through P.W.1. P.W.2 was also examined, and Ex. P-11 was marked through P.W.2. On behalf of the third respondent, no witness was examined. However, Exs. R-1 and R-2 were marked through P.W.1 during his cross-examination. Upon considering the entire gamut of facts, the documents, and the oral and documentary evidence adduced, the Tribunal concluded that the accident occurred solely due to the rash and negligent riding of the offending motorcycle by the first respondent.

7. The Tribunal also took into consideration the fact that P.W.2, an eyewitness to the accident, had been examined. Further, the Tribunal examined the Motor Vehicle Inspector's Report which was marked as Ex. P-3, the Observation Mahazar which was marked as Ex. P-8, and the rough sketch dated 29.05.2019 which was marked as Ex. R-1. The third respondent did not adduce any oral evidence, nor was the first respondent examined as a witness.

8. In the light of the above, we find no reason to differ from the view taken by the Tribunal, as it has duly considered the entire gamut of evidence and arrived at a correct conclusion on the issue of negligence.

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9. With regard to the quantum of compensation, the deceased was admittedly a graduate in Mechanical Engineering and was working at Turbo Engineering Private Limited, Paiyanor, Kerala, where he was earning a stipend of Rs. 12,000/- per month. He had been selected for employment and offered a salary of Rs.30,000/- per month upon completion of his internship. The claimants marked Ex. P-9, the degree certificate of the deceased, and Ex. P-10, the internship certificate issued by his employer. Based on these documents, the Tribunal concluded that the notional monthly income of the deceased should be fixed at Rs. 30,000/-.

10. The learned counsel appearing for the appellant would submit that the determination of the notional income by the Tribunal suffers from infirmity, as no documentary evidence had been produced to establish that the deceased would have earned Rs. 30,000/- per month. Exs.P-9 and P-10 merely establish that the deceased was a qualified engineer and was receiving a stipend of Rs. 12,000/- per month. According to the learned counsel, these documents cannot form the basis for concluding that the deceased was earning Rs. 30,000/- per month.

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11. Per contra, the learned counsel appearing for the claimants would submit that judicial notice may be taken of the fact that the deceased was 25 years of age on the date of the accident, i.e., 29.05.2019. Being a graduate in Mechanical Engineering and already receiving a stipend of Rs. 12,000/- per month, as established by Ex. P-10, the deceased would reasonably have earned Rs. 30,000/- per month upon completion of his internship.

12. Admittedly, in the present case, no other document, including an offer letter, was marked to establish the proposed monthly salary of Rs. 30,000/-. Further, the employer who intended to engage the deceased was not examined to substantiate the claim regarding his prospective income. In the absence of such oral and documentary evidence, we are unable to accept the Tribunal's finding with regard to the monthly income of the deceased. However, considering that the deceased was a graduate in Mechanical Engineering, and that he was 25 years of age, and was already receiving a stipend of Rs. 12,000/- per month, by taking into account the precedents on the subject, we hold that the notional monthly income of the deceased should be fixed at Rs. 25,000/- instead of Rs. 30,000/-, as determined by the Tribunal. Since the annual

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income is less than three lakhs, it would fall below the applicable tax slabs, and hence there can be no deduction on account of tax.

13. In this regard, it is relevant to refer to the judgment of the Hon'ble Division Bench of this Court in ***Venkateshwari v. K. Munikrishna,*** **CMA No.1231 of 2025** dated 19.01.2026. The relevant portion of the judgement are extracted as follows:

> *"6. On a perusal of the materials available on record, it is not disputed that the deceased was aged 26 years at the time of accident and was an Engineering Graduate. Ex.P-6 (provisional certificate) is also filed to prove that the deceased was an Engineering Graduate at the relevant point of time. Ex.P-7 - B.E. degree certificate is also produced to show that he is an Engineering Graduate. However, the Tribunal, without considering the aspect of the deceased being an Engineering Graduate, had taken the notional income at Rs.10,000/- on the ground that no proof of income on the part of the deceased, is produced by the claimants.*
>
> *7. It is relevant to note that a Division Bench of this Court in C.M.A.No.898 of 2025 (Rajkumar and 2 others Vs. Munikrishna and another), dated 17.12.2025, in regard to the pillion rider, had fixed the notional income at Rs.25,000/- and in paragraphs 5 and 6 of the said judgment, the Division Bench, held as under:*
>
> > *"5. As has been held by a Division Bench in the judgment reported in 2021 1 TNMAC 727 in the case of New India Assurance Limited Vs. Mr.K.Velmurugan, the notional income of the Engineering final year student has been fixed at Rs.25,000/- per month. In the present case, the deceased had been completed his Engineering Degree. Hence, the notional income of the deceased ought to have been taken as Rs.25,000/-, but the Court below had ignored Ex.P-11 and had given a categorical finding that the deceased is only a Diploma holder in Computer Designing to arrive at the*

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income of the deceased. Hence, we are of the view that the impugned order is liable to be interfered with.

6. In the compensation granted under the head 'love and affection', it is to be seen that the appellants are the father and brothers of the deceased. As per the judgment of the Honourable Apex Court in National Insurance Company Limited Vs. Pranay Sethi and others, reported in (2017) 16 SCC 680, Rs.40,000/- per head had been fixed under the head of loss of love and affection/consortium."

8. Considering the above said judgment, the Division Bench of this Court enhanced the compensation by fixing the notional income at the rate of Rs.25,000/- per month to the pillion rider, who was also similarly placed person as an Engineering Graduate.

9. Accordingly, we are also inclined to enhance the compensation by fixing the notional income of the deceased at Rs.25,000/-, though the Apex Court had also adopted the same in a similar case wherein the accident taken place in the year 2010, in Civil Appeal No.7180 of 2022 (arising out of SLP(C).No.10206 of 2020) (S.Vasanthi and another Vs. M/s.Adhiparasakthi Engg. College and another), dated 11.10.2022, considering the fact that the pillion rider who was also an Engineering Graduate and of similar age, the Division Bench has already fixed the compensation based on Rs.25,000/- as notional income, we are also inclined to adopt the same methodology to maintain the parity.

10. Accordingly, we also fix Rs.25,000/- as the notional income of the deceased, as held by the Division Bench in the case of Rajkumar and 2 others Vs. Munikrishna (supra).”

14. Accordingly, the loss of dependency is recomputed as follows:

Income (as modified)	Rs.25,000/-	
ADD : Future Prospectus as 40%	Rs.25,000 x 40% Rs.25,000 + 10,000	=Rs.10,000/- =Rs.35,000/-
DEDUCT : ½ of Income	Rs.35,000-17,500	=Rs.17,500/-
TOTAL	**Rs.17,500/-**	
Loss of Dependency	**Rs.17500 x 18 x 12 =Rs.37,80,000/-**	

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15. The Hon'ble Supreme Court, in ***Magma General Insurance Co. Ltd. v. Nanu Ram, reported in (2018) 18 SCC 130,*** while dealing with the issue of consortium, held as follows:

> *21. A Constitution Bench of this Court in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse: [Rajesh v. Rajbir Singh, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149]*
>
> ***21.1.*** *Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation". [Black's Law Dictionary (5th Edn., 1979).]*
>
> ***21.2.*** *Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*
>
> ***21.3.*** *Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

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> ***22.*** *Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.*
>
> ***23.*** *The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count [Rajasthan High Court in Jagmala Ram v. Sohi Ram, 2017 SCC OnLine Raj 3848 : (2017) 4 RLW 3368; Uttarakhand High Court in Rita Rana v. Pradeep Kumar, 2013 SCC OnLine Utt 2435 : (2014) 3 UC 1687; Karnataka High Court in Lakshman v. Susheela Chand Choudhary, 1996 SCC OnLine Kar 74 : (1996) 3 Kant LJ 570] . However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*
>
> ***24.*** *The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] . In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.*

16. As regards compensation awarded under the heads of loss of estate, funeral expenses, and loss of love and affection, the amounts awarded by the Tribunal under the respective heads cannot be

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sustained in their entirety. Following the decision of the Hon'ble Supreme Court in ***Sarla Verma and Others v. Delhi Transport Corporation and Another, reported in (2009) 2 TN MAC 1 (SC),*** the compensation of Rs. 1,00,000/- awarded under the head of loss of love and affection requires reconsideration, though the claimants are the father and mother of the deceased. Though the first claimant is the father of the deceased, the Tribunal has concluded that, considering the fact that the first claimant (father) was below 60 years of age, he was not a dependent and, accordingly, has not awarded any compensation to him under the head of loss of dependency. However, under the head of loss of love and affection, both the claimants are entitled to compensation in accordance with the dictum laid down in ***Sarala Verma*** **(as stated supra).** It is imperative that filial consortium be awarded to the parents in the event of the death of their child, as compensation for the loss of the child's love, affection, care, and companionship. Having regard to the applicable principles governing compensation under this head, we award a sum of Rs. 40,000/-to each of the claimants under the said head. Accordingly, the compensation awarded towards loss of love and affection stands reduced by Rs. 80,000/-in all.

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17. Accordingly, the award passed by the Tribunal is modified as follows:

Loss of Dependency **[Modified]**	Rs.37,80,000/-
Loss of Estate **[Confirmed]**	Rs. 15,000/-
Funeral Expenses **[Confirmed]**	Rs. 15,000/-
Loss of Love and Affection **[Modified]**	Rs. 80,000/-
TOTAL	**Rs.38,90,000/-**

18. In fine, the Civil Miscellaneous Appeal is partly allowed in the above terms. The appellant/Transport Corporation is directed to deposit the total compensation amount of **Rs.38,90,000/-**(less the amount, if any, already deposited), together with interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of deposit, to the credit of M.C.O.P. No. 36 of 2020, on the file of the Motor Accident Claims Tribunal, Additional District Court, Tenkasi, within a period of eight (8) weeks from the date of receipt of a copy of this judgment. Upon such deposit, together with the accrued interest, the second claimant is permitted to withdraw the award amount, along with interest and costs, after adjusting any amount already withdrawn, by filing an appropriate application before the Tribunal. There shall be no

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order as to costs. Consequently, the connected miscellaneous petition is closed.

(A.Q.,J.) (R.P.L.,J.)
30-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
KSA

Copy To:

1. The Motor Accidents Claims Tribunal, Tenkasi
   (Additional District Court, FTC, Tenkasi).

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

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ABDUL QUDDHOSE, J.
AND
RAJNISH PATHIYIL, J.

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