

IN THE COURT OF THE III ADDITIONAL DISTRICT JUDGE,
(MOTOR ACCIDENT CLAIMS TRIBUNAL)
THANJAVUR @ PATTUKKOTTAI.

Present: Thiru.T.V.MANI, B.A., L.L.B.,
III Additional District Judge,
Thanjavur @ Pattukkottai.

Friday the 14th day of February 2025

Thiruvalluvar Aandu 2055- Sri Kurodhi varudam – Masi 2nd day

M.C.O.P. No. 97/2019

(In pursuance of the circular of Hon'ble High Court of Madras in ROC No.2598/2021/RG/F1& in P.Dis.46/2021 dated 23.06.2021 the CNR number is specified as TNTJOE-000205-2019 to the above said case).

- 1) Hilda Elizabeth Manickam , Age-43, W/o. Deceased Premkumar
- 2) Aadin Rajaroshini, Age-24, D/o. Deceased Premkumar,
- 3) Amaresh Jayaroshan, Age-22, S/o.Deceased Premkumar

Petitioners are residing at No. 69, Main Road, Anaikadu Village,
Pattukottai Taluk.

.... Petitioners

1. As per order passed in I.A.No.688/2023, Dated:17.07.2023, the guardian for the minor 2nd Petitioner was removed and as per order passed in I.A. 689/2023, Dated 17.07.2023 the 2nd minor Petitioner was declared as attained majority. And as per Order passed in I.A. 690/2023, Dated17.07.2023, the guardian for the minor 3rd petitioner was removed and as per order passed in I.A.691/2023, dated 17.03.2023 the 3rd petitioner was declared as attained majority and as per Order passed in I.A.692/2023, Dated:17.07.2023 the main Claim petition was amended accordingly.

2. As per Order passed in I.A.889/2023, Dated:03.10.2023, Court Guardian appointed for Respondents 3 and 4 and as per Order passed in I.A. 975/2023, Dated 03.10.2023 the Court Guardian for the Respondents 3 and 4 was removed.

3. As per order passed in I.A.No.1191/2023, Dated:12.12.2023, the guardian Kavitha for the minor 3rd Respondent was removed and as per order passed in I.A. 1192/2023, Dated 12.12.2023 the minor 3rd Respondent was declared as attained majority and as per order passed in I.A.No.1189/2023, Dated:12.12.2023, the guardian Kavitha for the minor 4th Respondent was removed and as per order in I.A.1190/2023, Dated:12.12.2023, the Minor 4th Respondents was declared as attained majority And as per Order passed in I.A.No.34/2024, Dated29.01.2024 the claim petition amended accordingly.

4. As per Order Passed in I.A.695/2024, Dated:23.09.2024, the 5th Respondent was impleaded and as per the order passed in I.A.789/2024, Dated:29.10.2024 the claim petition is amended accordingly.

/Versus/

- 1) Ramesh, Age-44, S/o. Chandran Chettiar,
residing at Muthaiya Complex, Madathu Street,
Kumbakonam Town, Thanjavur District.

- 2) The United India Insurance Company Limited,
Pattukottai, having office at Pradeep Towers,
Chinnaiya Street, Pattukkottai Town, Thanjavur Distrit.
- 3) Mohanapriya, Age-17, D/o. Deceased Premkumar
Residing at Mela Street, Periyakottai Village,
Pattukottai Taluk, Thanjavur District.
- 4) Amuthini, Age-16, D/o. Deceased Premkumar
Residing at Mela Street, Periyakottai Village,
Pattukottai Taluk, Thanjavur District.
- 5) Premavathi, Age- 63, W/o.Vairakannu, Mother of Deceased Premkumar.
Residing at No.6/117, Gopalamuthiram,
Periyakottai Village,Pattukottai Taluk,
Thanjavur District.

.... Respondents

This Petition was presented on 24.04.2019 and taken on file on 10.06.2019 and came up before me for final hearing on 28.01.2025 in the presence of **Thiru.A.G.Manikandan., M.A., B.L.,** Counsel appearing for the Petitioners and **Thiru.K.P.Senthilvelan., MBA., B.L.,** Counsel appearing for the 1st Respondent and **Thiru. M.Kumaravel., BSc., B.L.,** Counsel appearing for the 2nd Respondent and **Thiru.V.Siva., MSc., L.L.B.,** Counsel appearing for the Respondents 3 and 4 and on 03.10.2023 Counter was filed and for 5th Respondent, the Counsel **Thiru.V.Siva., MSC., L.L.B,** filed Vakalath and Counter was filed on 25.11.2024. Upon hearing the arguments on both side and upon perusing the case records and having stood over for consideration till this day, this court hereby delivered the following

ORDER

The petition is filed by the Petitioners u/s 163 and 166 of the Motor Vehicles Act, as against the Respondents 1 and 2 for claiming compensation of Rs.30,00,000/- for the death of one Premkumar S/o.Vairakannu in the Motor Vehicle Accident which took place on 21.10.2018 at 07.30 PM., at Thanjavur to Kumbakonam Bye pass Road, near Ayyappan Readymix.

2. The brief averments contained in the petition filed by the petitioners is as follows:-

(i) On 21.10.2018 at 7.30 P.M the deceased Premkumar was proceeded in a TVS Wego Two Wheeler bearing its Regn.No. TN-49-BK-0039 at Thanjavur to Kumbakonam Bye pass Road, South of Ayyappan Redimix Company, from North to South direction, at that time, from the opposite direction, i.e. South to North direction, the driver of the Toyota Innova Car bearing Regn.No.TN-68-E-0006 belonging to the 1st Respondent and insured with the 2nd Respondent, ridden the Car in a rash and negligent manner and dashed on the deceased Premkumar. Due to impact, the deceased Premkumar sustained multiple fatal injuries. Immediately he was taken to Thanjavur Medical College Hospital and where the Doctor declared as the Premkumar died. The accident had occurred only due to rash and the negligent driving of the rider of the 1st Respondent's Toyota Innova Car bearing Regn.No.TN-68-E-0006 and insured with the 2nd Respondent. The Thanjavur Traffic Investigation Wing , has registered a case on the complaint given by one Kavitha/who is the 2nd wife of deceased Premkumar against the rider of Unknown Car in Cr.No.167/2018 U/s.304(A) of IPC.

(ii) The deceased was aged about 41 years at the time of accident. At the time of accident, the deceased was an agriculturist and he earned Rs.30,000/- per month and he used to contribute entire to the welfare and maintenance of his family. The 1st Petitioner is the wife of deceased and she had lost her life partner and and Petitioners 2 to 3 and Respondents 3 and 4 are daughters and son of deceased . They had lost their lovable father. 5th Respondent is the mother of deceased, she had lost her lovable son. The death of the deceased is unbearable loss to the petitioners and Respondents 3 to 5 and the petitioners and Respondents 3 to 5 future is shattered into pieces.

(iii) The 1st Respondent is the Owner and the 2nd Respondent is the Insurer of the said Toyota Innova Car bearing Regn.No.TN-68-E-0006 and so the Respondents 1 and 2 are jointly, severally liable to pay a sum of Rs.30,00,000/- as compensation with 12% interest per annum from the date of Occurrence till realization with costs. Hence, this petition.

3.The Brief Averments contained in the Counter filed by the 1st Respondent as follows:

(i) The Petition is neither maintainable under Law nor on facts. This Respondent denied the entire allegation contained in the petition except those that are specifically admitted in the counter.

(ii) This Respondent does not admit that, on 21.10.2018 at 7.30 P.M the deceased Premkumar was driven in a TVS Wego Two Wheeler bearing its Regn.No. TN-49-BK-0039 at Thanjavur to Kumbakonam Bye pass Road, from North to South direction, at that time, from the opposite direction, i.e. South to North direction, the driver of 1st Respondent ridden the Car bearing Regn.No.TN-68-E-0006 in a rash and negligent manner and dashed on the deceased Premkumar and the accident had happened. It is true that, on the date of accident, the driver of the 1st Respondent Car driver was driving his Car slowly following Traffic Rules and Regulations keeping left side of the Road at that time, opposite direction, the deceased was riding his Motor cycle without following Traffic Rules and Regulations and suddenly came and turned to Right side of the Road and accident was happened. The said accident was happened only the rash and negligent driving of the Deceased. There was no rash and negligence on the part of the driver of the said Car as falsely averred in the petition as well as in the FIR.

(iii) The age, occupation, income and legal heirs of the deceased are denied by the Respondent. The petitioners are bound to prove all these facts through documentary evidence. The petitioners have claimed interest which is very high and contrary to the nature of law. Claimed Compensation amount is excessive. Hence, this respondent is not liable to pay any compensation to the petitioners and prays for dismissal of the petition.

4. The brief averments contained in the Counter filed by the 2nd Respondent is as follows:

(i) This Respondent submit that it denies all the allegations in the petition except those that are specifically admitted herein and puts the petitioners to strict proof of every one of the allegation.

(ii) That the petition is not maintainable either in law or on fact and as

such has got to be dismissed in limine.

(iii) That the petitioners and the 1st Respondent put to strict proof that the Car bearing Regn.No.TN-68-E-0006 was validly insured with this Respondent's insurance company on the date of accident and that the driver of the same possessed a valid and effective driving license to drive such class of the vehicle on the date of accident. If there is any violation of policy and permit condition then this respondent is not liable to pay any amount as compensation.

(iv) That the petitioners should have impleaded the Insurer and the Owner of the Two Wheeler bearing Regn.No.TN-49-BK-0039 which the deceased was riding as parties to this proceedings, lest this petition is bad for non joinders of necessary parties.

(v) That the rider of the Two Wheeler, deceased Premkumar did not possess valid and effective driving license to drive such class of vehicle on the date of accident and the vehicle was also not insured. It has been mentioned in the MVI Report also. The deceased did not wear helmet at the time of accident as per the MV Act. There was a delay of one day in filing the FIR.

(vi) The accident occurred due to the carelessness and negligence of the deceased and not due to the negligence of the driver of the 1st Respondent. On the date of accident, the 1st Respondent's vehicle driver was driving his Car slowly in consideration of time and traffic. But the deceased who was riding his motor cycle from the opposite side, suddenly came to the wrong side of the road for the best reasons known to him. After seeing this, the 1st Respondent's driver applied sudden brake and stopped the vehicle on his track, but the deceased who was unable to control his bike came and dashed against the Car and invited the accident. The Rough Sketch made by the Investigation Officer of this case reveals the same. The deceased alone is responsible for the accident.

(vii) According to this petition immediately after the accident the deceased was taken to TMCH, Thanjavur, there he was declared brought

dead.

(viii) The profession and income of the deceased are hereby denied. The petitioners have to prove it by producing documentary evidence. The Petitioners and Respondents 3 and 4 have to prove that they are the Legal Heirs of the deceased by producing Legal Heir certificate.

(ix) The claim made under various heads in part 1 of column 22 are highly exaggerated and made in a speculative spirit. In any event a total claim of Rs. 30,00,000/- is not only excessive but also fanciful. This respondent is not liable to pay any amount as compensation since the accident was not due to the carelessness of the 1st Respondent's driver. The amount of compensation is excessive, exorbitant. Hence the petition has to be dismissed with cost.

5. The brief averments contained in the Counter filed by the Respondents 3 and 4 is as follows:

All the averments made in the petition is true. The Respondents 3 and 4 are the legalheirs of deceased Premkumar. Hence these Respondent are entitled to the compensation. Mother and father of deceased has not included in the claim petition. Petitioners along with these Respondents are also entitled to compensation. Therefore, the petition filed by the petitioners is liable to be allowed.

6. The brief averments contained in the Counter filed by the 5th Respondent is as follows:

(i) This Respondent submit that the allegations in the petition except those that are specifically admitted herein. The 5th Respondent is the mother of deceased Premkumar.

(ii) This Respondent was direct legal heir of deceased Premkumar. The 1st Respondent is fully responsible for the said accident. Petitioners along with this Respondent is also entitled to compensation. Therefore, the petition filed by the petitioners is liable to be allowed.

7) Points for Consideration:

1. Whether the accident had occurred due to the rash and negligent driving of the driver of the 1st Respondent's Toyota Innova Car Bearing Reg.No.TN-68-E-0006 as alleged by the petitioners in the petition is true or not?
2. Whether the accident had occurred due to the rash and negligent riding of the rider of Two Wheeler bearing Regn.No.TN-49-BK-0039 as alleged by the 1 and 2 Respondents in the Counter is true or not?
3. Whether the Petitioners and the Respondent 3 to 5 are entitled to claim compensation and Who is liable to pay compensation?
4. What is the quantum of the compensation?

8. On the side of the Petitioners, the 1st Petitioner namely Hilda Elisabeth Manickam has been examined as PW1 through her Ex.P.1 to Ex.P.24 were marked. And one Anbazhagan/eye-witness of the occurrence has been examined as PW2 through him No document was marked. On the side of 2nd Respondent's Ex.R1 to Ex.R3 were marked by PW1 Cross. On the side of Respondents, the Counsel for Respondents 1 to 5 reported No oral evidence are to be let in on their side. u/s.170 MV Act petition was not filed.

9. Heard both side. Perused the case records.

10.Points No.1 and 2 :-

(i) The vehicles are involved in the accident namely Toyota Innova Car bearing Regn.No.TN-68-E-0006 and TVS Wego Two Wheeler bearing Regn.No. TN-49-BK-0039 and the death of Premkumar in the accident are all admitted by the Respondents. But the manner, factum of the accident and their liability is strictly denied by the Respondents 1 and 2 in its counters statement. And during the course of Enquiry on the side of Respondents 3 to 5, Counter has been filed and No witness has been examined and No document has been marked, to belie the Statement and claim of the petitioners and to disprove the contentions as raised in the Petition. And during the Course of Enquiry on the side of 2nd Respondent Ex.R1 to Ex.R3 were marked and proved the

contentions as raised in the petition.

(ii). In order to prove the claim, the 1st Petitioner who is the wife of deceased has examined herself as PW1. And one eye-witness was examined as PW.2. They had deposed in line with the facts narrated in the claim petition by having support of the Exhibits. The True copy of F.I.R. was marked as Ex.P1 in which it is seen that the Criminal case was registered as against the driver of the Unknown Car in Cr.No.167/2018, u/s 304-A of IPC. The recitals of F.I.R. further reveals that, the rash and negligent driving of the driver of Unknown Car was the main cause for the accident. The complaint was given by the Kavitha / who is 2nd wife of the deceased Premkumar.

(iii) Further on the side of Respondents 1 and 2 have contended that the accident occurred due to the carelessness and negligence of the deceased and not due to the negligence of the driver of the 1st Respondent . On the date of accident, the 1st Respondent's vehicle driver was driving his Car slowly in consideration of time and traffic. But the deceased who was riding his motor cycle from the opposite side, without following Traffic Rules and Regulations and suddenly came to the wrong side of the road and came and dashed against the Car and invited the accident. On the side of petitioners, it is pleaded in the petition and in the evidence of PW1 and PW2, it is averred and deposed that the reason for the accident is at that time, the driver of the said Toyota Innova Car has driven the same in a rash and negligent manner, dashed on the deceased and the deceased had sustained fatal injuries. Though the accident had been caused by the above mentioned reasons, the same has been mentioned in the FIR. It is not denied by Respondents.

(iv) On a perusal of the Ex.P1, the true copy of FIR, it is evident that the case has been registered only as against the driver of unknown Car u/s 304(A) of IPC and it is so admitted by the Respondents. Further P.W.2 namely Anbalagan, eye-witness to the occurrence has stated that, the accident had occurred due to the reasons as mentioned in the petition and he has deposed the same. And he has deposed as in his cross examination by 2nd

Respondent as " விபத்து பற்றி எனக்கு நேரில் எப்படி தெரியும் என்றால் எனக்கு முன்னால் சென்றார். அவர் எனக்கு 20 அடி தூர இடைவெளியில் சென்று கொண்டிருந்தார். இந்த விபத்தில் எனக்கு எந்த காயமும் ஏற்படவில்லை. விபத்து நடந்தவுடன் நான் ஆம்புலன்சிக்கு தகவல் சொன்னேன். போலிசில் நான் ஒன்றும் புகார் கொடுக்கவில்லை. போலிசார் சம்பவயிடம் வரும் சமயம் நான் அங்கு இருந்தேன். போலிசார் என்னை விசாரித்தார்கள். விபத்தானது 21.10.2018 அன்று இரவு 7.30 மணிக்கு நடைபெற்றது. விபத்தில் இறந்துபோனவர் இருசக்கர வாகனத்தில் வடக்கில் இருந்து தெற்கு நோக்கி வந்து கொண்டிருந்தார். நான் அவருக்கு பின்னால் 20 அடி தூர இடைவெளியில் அதே திசையில் வந்தேன்" என்றும் சாட்சியம் அளித்துள்ளார். It is not denied by the Respondents 1 to 5. As far as the rash and negligent driving of the rider of the said Car, as though it was pleaded in the petition and to the said effect PW1 and PW2 evidences were also not protested or objected by the Respondents by letting of evidences and to contradict the same. Being canvassed the evidence of PW1 and PW2, since there is a lack of evidence in respect of negligence and documents on the side of Respondents 1 and 2, this court hereby comes to the conclusion that, the accident had occurred for the reasons mentioned in the petition as well as in the evidence of PW1 and PW2.

(v) Moreover the as per the Respondents 1 and 2 Counters, and as per the available records, 1st Respondent is the Owner of the said Toyota Innova Car and the driver has driven the same at the time of the accident. It is not denied by the Respondents 1 to 5 herein.

(vi) From the careful reading of petition, counters of Respondents 1 and 2 and evidences of PW1 and PW2, it is seen right from beginning there is No denial of negligence on the part of the driver of the 1st Respondent as well as 2nd Respondent. To rebut the evidence of petitioners side, to establish that there is No negligence Act is on the part of the driver of the 1st Respondent, the driver of the said Vehicle has not made any complaint before Respondents 1 and 2 or the concerned Police Station in respect of the accident and also No steps were taken by the Respondents to examine the Car Driver. Having

been considered upon the evidences and being perusal of the entire case records, it is proved that there is negligence act on the part of the driver of the 1st Respondent alone and not by the deceased. As though, the complaint has been preferred for the cause of occurrence and the cause of death of the deceased by Toyota Innova Car bearing Regn.No.TN-68-E-0006. It is also admitted by the both side. And even on the side of petitioners, as well as Respondents 1 and 2 side, they have categorically come forward with the proof of that the concerned Police had registered the FIR as against driver of 1st Respondent. In fact, by registering the FIR, and in particular, the driver of the said Car have not agitated the same. It is also clearly proved that the Toyota Innova Car only was involved in the occurrence and the same was driven by the said driver. Hence there is no question of falsely implicating the said Car and the said driver.

(vii) And it is also argued on the side of 2nd Respondent that the Rider of the Two Wheeler/Deceased had not possessed driving license and Insurance Policy at the time of Accident. The Ex.R1/ True copy of MV Inspection Report for Two Wheeler bearing Regn.No. TN-49-BK-0039, it is mentioned as "**Without DL, Without IC**". Therefore the burden of proving the same is not on the part of 2nd Respondent. Admittedly on the side of petitioners, Insurance Policy, Registration Certificate was not produced. Hence it is proved that on the day of occurrence the rider of the Two Wheeler/ deceased/ had driven the Two Wheeler without having valid driving license and without Insurance Policy. Under these circumstances, this Court can easily find out that the accident had occurred due to the rash and negligent driving of the driver of the 1st Respondent Car bearing Regn.No. TN-68-E-0006 and there is a Contributory Negligence on the part of the deceased since the Rider of the Two Wheeler had driven the same without having valid driving license and Insurance Policy and there is a possibility of violating Motor Vehicles Rules and of occurring Contributory Negligence on the part of the Rider of the Two Wheeler / Deceased also and to the said effect this **Point No. 1 and 2** is

answered accordingly.

11. POINT No.3:

(i). PW1 has produced Ex.P1 to Ex.P24 have been in support of their case. Admittedly, 1st Respondent is the Owner of the said Toyota Innova Car bearing Regn.No.TN-68-E-0006. It is proved by the petitioner under Ex.P3—Registration Certificate. And the Policy which was issued by the 2nd respondent and it is in force at the time of the accident. It is also proved by the petitioner under Ex.P4. The same thing has not been denied by the respondents 2 herein. Therefore, the 2nd Respondent as the Insurer is liable to indemnify to 1st Respondent and the 2nd Respondent is liable to pay the compensation on behalf of the 1st Respondent, for the death of Premkumar S/o.Vairakannu, and the Petitioners and Respondents 3 to 5 are entitled to receive claim amounts.

(ii) As discussed in the earlier paragraph, this Court is also very much inclined to fix the Contributory Negligence for non possessing the Valid Driving license and Insurance Policy by the Petitioner. Having been considered upon from the all point of view and with the above said observations, out of the awarded total amount the Petitioners and Respondents 3 to 5 are entitled as **90%** award amount from the 1st and 2nd Respondents and the Petitioners and Respondents 3 to 5 should bear upon **10%** from the award amount and the **Point No.3** is answered accordingly.

12. POINT No. 4:-

(i). PW1 has stated that, her husband/deceased Premkumar was aged at only 41 years, at the time of accident. Ex.P2/True copy of Post Mortem Certificate says the age of the deceased was 41 years old at the time of accident. It is not denied by the petitioners as well as the Respondents herein. Hence this Court is fixed the age of the deceased at the time of the accident is 41 years. Admittedly the multiplier applicable is **14**. It is not denied by the Respondents herein.

(ii) It is the case of the petitioners is, the 1st petitioner is the wife and the Petitioners 2 and 3 and Respondents 3 and 4 are the Daughters and son and 5th Respondent is the mother of the deceased. And as per the evidence of

PW1 it is proved by the petitioners and Respondents 3 to 5 are the Legal Heirs of the deceased Premkumar. And in the strict sense, they are depending on the income of the deceased. Hence the petitioners 1 to 3 and Respondents 3 to 5 are entitled to receive the compensation amount from the Respondents 1 and 2.

(iii) It is the case of the petitioners is, the deceased was aged 41 years old and the deceased was an agriculturist and he earned Rs.30,000/- per month and he used to contribute entire to the welfare and maintenance of his family. The deceased was the only bread winner in the family. And in the strict sense, the petitioners 1, to 3 and Respondents 3 to 5 are depending on the income of the deceased.

(iv) In order to prove the income of the deceased Premkumar on the side of the Petitioners, No proof of documents was filed. Hence in the absence of proving the income of the deceased and considering the age of the deceased and the evidence of PW1, taking into consideration of the raising money value and wages, squarely the Notional Monthly Income of the deceased is fixed at Rs.12,000/- per month (since the deceased was 41 years at the time of accident) and this court does feel, it is so reasonable and not by excessive.

(v) *The guideline rendered in the Judgment, in the Special Leave Petition (Civil) NO.25590 of 2015, National Insurance Company Limited Versus Pranay Sethi and Others was carefully observed.*

(vi). The monthly Notional income of the deceased is fixed as Rs.12,000/- per month and the age of the deceased was fixed as 41 and the multiplier was taken as 14. Since the petitioners are 3 and Respondents are 3 (Totally- 6) and it is possible by deducting $\frac{1}{4}$ for personal expenses $\text{Rs.12,000} - 3000 = 9,000/-$ was arrived as his monthly income and added 25% of future prospects of Rs.2250/- totally comes as $\text{Rs.9,000} + 2,250 = \text{Rs.11,250/-}$ per month. Hence, the loss of income of the deceased is arrived at $\text{Rs.11,250} \times 12 \times 14 =$ a total sum of **Rs.18,90,000/-**.

(vii) During the course of argument, the Counsel who is appearing for

the petitioners contents that the Tribunal may fix and grant under the head, Loss of Love and Affection along with conventional heads of Loss of Estate, Consortium and Funeral Expenses etc.

(viii) *In this regard, this Tribunal does wants to rely upon the Hon'ble Apex Court's Judgment which was pronounced in the Civil Appeal No.3093/2020 (Arising Out of SLP (C) No.23478/2020, dated 07.09.2020. In obedience to the Hon'ble Apex Court Judgment, it is well settled by the Hon'ble Apex Court that no compensation can be awarded under the head Loss of Love and Affection and further the Hon'ble Apex Court also has held that Loss of Love and Affection is comprehended in Loss of Consortium, hence there is no justification to award compensation towards Love and Affection as a separate head and in obedience to the Hon'ble Apex Court's Judgment, it is relevant to pass an award both spousal and parental consortium and that much only the petitioners are entitled to receive apart from the award amount of Loss of Estate and the Funeral Expenses. And in obedience to the Hon'ble Apex Court's Authority, this Tribunal also does feel that Consortium is not limited to Spousal consortium and it also includes Parental consortium and as much the petitioners who are the sons and daughter of the deceased are each entitled to receive the Consortium under the head of Parental consortium. And in obedience to the Hon'ble Apex Court's Authority, the petitioners are not entitled to receive the Award Amount under the Head of Loss of Love and Affection.*

(viii) In fine a sum of **Rs.18,90,000/-** is awarded towards Pecuniary Loss. A sum of **Rs.15,000/-** is awarded towards loss of estate. A sum of **Rs.15,000/-** is awarded towards funeral expenses. As far as Loss of Consortium is concerned, the 1st Petitioner is the wife of deceased and she is entitled to receive Rs. 40,000/- under the Head of Spousal Consortium and Petitioners 2 and 3 and Respondents 3 and 4 are the Daughters and son and 5th Respondent is the mother of deceased and they are entitled to receive Rs. 40,000/- each under the head of Parental Consortium. (Totally the Petitioners and Respondents 3 to 5 are entitled **Rs.2,40,000/-** under the

head of Loss of Consortium). Thus, in toto, the petitioners and Respondents 3 to 5 are totally entitled to get a sum of **Rs.21,60,000/-** as compensation and the **Point No.4** is decided accordingly.

(ix). The petitioners and Respondents 3 to 5 are entitled for compensation under various heads as follows :-

1. Pecuniary Loss	Rs. 18,90,000/-
2. Loss of Estate	Rs. 15,000/-
3. Funeral expenses	Rs. 15,000/-
4. Loss of Consortium	Rs. 2,40,000/-

Total	Rs. 21,60,000 /-
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Having been considered upon from the all point of view and with the above said observations, out of the awarded total amount the petitioners are entitled as 90% award amount from the Respondents 1 and 2 and the petitioners should bear upon 10% from the award amount since the deceased while driving the two-wheeler at the time of occurrence he had driven the same without having valid driving license and without Insurance Policy and there is a possibility of violating Motor Vehicles Rules and there is a possibility of Contributory Negligence also. Hence the calculation is arrived as **Rs.21,60,000 x 90% =Rs.19,44,000/-**. And From **Rs.21,60,000x 10% = Rs.2,16,000/-**.

13. In the result,

- (i) that the petition be and the same is hereby partly allowed with proportionate interest and cost.
- (ii) that the Respondents 1 and 2 are jointly and severally liable to pay a sum of **Rs.21,60,000/-** (Rupees Twenty One Lakhs and Six Thousand only) to the Petitioners and Respondents 3 to 5 together with interest at the rate of 7.5% per annum from the date of petition on 24.04.2019 till the date of deposit along with proportionate cost.
- (iii) ~~the~~ And from the said total award amount, as discussed in the earlier paragraphs, the 2nd respondent is liable to pay a sum of **Rs.19,44,000/-** (90% from the total award amount of **Rs.21,60,000/-**) as compensation to the petitioners and Respondents 3 to 5 with

proportionate interest and cost. The Petitioners and Respondents 3 to 5 should bear upon Rs.2,16,000/- (10% from the total amount of Rs.21,60,000/-).

- (iv) That the 2nd Respondent as the Insurer is liable to indemnify the 1st Respondent and the 2nd Respondent shall deposit the above said amount within two months from the date of this Order i.e. 14.02.2025 by NEFT/RTGS mode in the III Additional District Judge, Thanjavur @ Pattukkottai VAN Account No. **3ADPATMCOPNO97B2019 IFSC SBIN0004266** of State Bank of India, Main Branch, Pattukkottai under intimation to this Tribunal by way of sending pay advice slip.
- (v) that the 1st Petitioner is the wife of deceased and she is entitled to receive **Rs.4,44,000/-** and 5th Respondent is the Mother of deceased and she is entitled to receive **Rs.2,00,000/-** and together with subsequent interest and proportionate costs.
- (vi) that the Petitioners 2 and 3 and Respondents 3 and 4 are Daughters and Son of the deceased and they were entitled to receive **Rs.3,25,000/- each (Totally Rs.13,00,000/-)** together with subsequent interest and proportionate cost..
- (vii) that the Petitioners are directed to deposit the balance Court Fee of **Rs.10,288/-** and the Respondents 3 to 5 is directed to deposit the balance court fee of **Rs.7,873/-** within 15 days from the date of award on 14.02.2025. The Petitioners and Respondents 3 to 5 are shall not be entitled to withdraw the sum deposited pursuant to the award, with cost unless the balance court fees for their share is deposited
- (viii) The Petitioners 1 to 3 and Respondents 3 to 5 are permitted to withdraw their share amount along with interest and proportionate cost immediately after deposited by 1 and 2 Respondents subject to deposit of their share of balance court fees.
- (ix) that the Advocate Fee of petitioners is fixed as **Rs.17,940/-**.
- (x) that the Advocate fee of Respondents 3 to 5 is fixed as **Rs.15,500 /-**
- (xi) that the 1st and 2nd Respondents are directed to pay a sum of Rs.28,285 /- as being the cost to the petitioners as tabulated herein.

Other Necessary Particulars:

Date of Petition	:	24.04.2019
Date of Award	:	14.02.2025

Amount of Compensation claimed is	:	Rs.30,00,000/-
Amount of compensation is awarded by this Tribunal is	:	Rs. 19,44,000/-
Court Fee payable by the Petitioner is	:	Rs.10,312.50
Court Fee already paid by the Petitioner is	:	Rs.25/-
Balance court fee to be paid by the Petitioner is	:	Rs.10,287.50 Rounded to Rs. 10,288/-
Court Fee payable by the 3 to 5 Respondents is	:	Rs.7,872.50 Rounded to 7,873/-
Court Fee already paid by the 3 to 5 Respondents is	:	Nil
Balance court fee to be paid by the 3 to 5 Respondent is	:	Rs.7,872.50 Rounded to 7,873/-

Cost taxed in the side of Petitioner

Particulars	Petitioners side	Respondents side
Court fees	10,312.50	--
Vakalath Nama Stamp	10.00	
Process fee	22.50	
Advocate fee	17,940.00	
Total	28,285.00	

(Cost List not filed by the petitioners side).

In pursuance of the direction of the Hon'ble High Court of Madras dated 12.05.2020 and for the said compliance, both side Counsels are entitled to receive Free Award Copies from today within 15 days. And further it is ordered to receive the Free Award Copies, both side Counsels are directed to file a Memo in this regard before this Court from the date of passing award within 15 days. And further it is ordered as per the direction of the Hon'ble High Court, Madras, this Court is not insisting on parties filing of Copy Applications for the purpose of receiving their respective Free Copies of Award. And further it is informed, as per the direction of the Hon'ble High Court, as far as this Claim Petition is concerned, Decree is not drafted separately. And in the Award, instead of drafting the Decree, necessary details have been incorporated in this Claim Petition's order.

Dictated to the Steno Typist, directly typed by her in the computer,

corrected and pronounced by me in open court, on this the **14th** day of **February 2025**.

MOTOR ACCIDENT CLAIM TRIBUNAL JUDGE/
(III ADDITIONAL DISTRICT JUDGE)
THANJAVUR @ PATTUKKOTTAI.

Petitioners side witnesses:

1. P.W.1 : Hilda Elisabeth Manickam.(1st Petitioner)
2. P.W.2 : Thiru. Anbazhagan.

Petitioners side exhibits:

Ex.P1	22.10.2018	True copy of First Information Report
Ex.P2	22.10.2018	True copy of Postmortem Report of Premkumar
Ex.P3	-	True copy of Registration Certificate of TN-68-E-0006 Car
Ex.P4	16.11.2017	True copy of Insurance Policy of TN-68-E-0006 Car
Ex.P5	-	True copy of Driving License namely Vignesh S/o. Balachandran.
Ex.P6	26.10.2018	True copy of MV Inspection Report of TN-68-E-0006 Toyota Innova Car
Ex.P7	-	True copy of Aadhar Card of 1st petitioner
Ex.P8	-	True copy of Family Card of 1st Petitioner
Ex.P9	14.09.1998	True copy of Marriage Registration Certificate of 1st Petitioner and Deceased Premkumar.
Ex.P10	-	True copy of Voter Identity Card of 1st Petitioner
Ex.P11	-	True copy of Aadhar Card of 2nd petitioner
Ex.P12	07.03.2014	True copy of Birth Certificate of 2nd Petitioner
Ex.P13	-	True copy of Pan Card of 2nd Petitioner
Ex.P14	05.03.2019	True copy of Residence certificate of 2nd Petitioner
Ex.P15	04.07.2019	True copy of Community Certificate of 2nd Petitioner
Ex.P16	-	True copy of Conduct Certificate of 2nd Petitioner

Ex.P17	-	True copy of Aadhar Card of 3rd Petitioner
Ex.P18	-	True copy of Voter Identity Card of 3rd Petitioner
Ex.P19	20.07.2015	True copy of Birth Certificate of 3rd Petitioner
Ex.P20	-	True copy of Pan Card of 3rd Petitioner
Ex.P21	-	True copy of Residence certificate of 3rd Petitioner
Ex.P22	-	True copy of Community Certificate of 3rd Petitioner
Ex.P23	29.07.2019	True copy of Conduct Certificate of 3rd Petitioner
Ex.P24	27.05.2019	True copy of Endorsement made by the Tahsildar, Pattukottai.

Respondents side Witness : Nil

Respondents 1,3 to 5 side and Exhibits : -NIL-

2nd Respondents side Exhibits:

Ex.R1	03.12.2018	True copy of MV Inspection Report for TN-49-BK-0039
Ex.R2	07.08.2023	True copy of Rough Sketch
Ex.R3	07.08.2023	True copy of Observation Mahazer.

MOTOR ACCIDENT CLAIM TRIBUNAL JUDGE/
(III ADDITIONAL DISTRICT JUDGE)
THANJAVUR @ PATTUKOTTAI