IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA Nos. 287 of 2023, 102 of 2024 and 136 of 2026

CMA No.287 of 2023

1. Manickam

2. Umamaheswari

..Appellant(s)

Vs

1. Sudhakar

2. ICICI Lombard General Insurance Co.Ltd.,
   SF No. 6/5-Swarnambikai Plaza Block, No. 7,
   Ward C, Omalur Main Road,
   Near New Bus Stand, Salem.

..Respondent(s)

CMA No. 102 of 2024

ICICI Lombard General Insurance Co Ltd,
SF No.6/5, Swarnambikai Plaza, Block No 7,
Ward C, Omalur Main Road,
Near New bus Stand, Salem.

..Appellant(s)

Vs

1. Manickam

2. Umamaheswari

3. Sudhakar

..Respondent(s)

CMA No. 136 of 2026

ICICI Lombard General Insurance Co.Ltd.,
Rep.by its Authorized Person,
Chotabhai Centre,
No.140, II and III Floor,
Nungambakkam High Road,
Chennai 600 034.

..Appellant(s)

Vs

1. J.Mohanraamkumar

2. A.Meenambal

3. Shivaani

4. Sudhakar

5. Damotharan

6. ACKO General Ins.Co.Ltd.,
   Rep. by its Authorized person,
   E-301, 3rd Floor, Lotus Corporate Park,
   Off Western Express Highway,
   Goregan (E), Mumbai - 400 063.

..Respondent(s)

PRAYER IN CMA No. 287 of 2023: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to enhance the award against the Order dated 10.10.2022 and made in MCOP No.234/2020 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem with cost

PRAYER IN CMA No. 102 of 2024: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the judgment and decree dated 10.10.2022 made in MCOP.No.234 of 2020 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.

PRAYER IN CMA No. 136 of 2026: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the judgement and decree dated 02-04-2025 made in MCOP.No.82 of 2020 on the file of the MACT, Chief Court of Small Causes, Chennai.

CMA No. 287 of 2023

For Appellant(s): MR.G.Sudangan

For Respondent(s): R1 – No appearance
M/S. R.Sree Vidhya For R2

CMA No. 102 of 2024

For Appellant(s): M/S. R.Sree Vidhya

For Respondent(s): MR.G.Sudangan for R1 & R2
R3 – Not ready in notice

CMA No. 136 of 2026

For Appellant(s): M/S. R.Sree Vidhya

For Respondent(s): M/s.S.Revathy for R1 to R3.
R4 to R6 – Not ready in notice.

COMMON JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

The second respondent in MCOP.No.82 of 2020 aggrieved by the Award dated 02.04.2025 passed by the Chief Judge, Court of Small Causes, Chennai/Motor Accident Claims Tribunal, Chennai is the appellant herein.

2.The first and second petitioners had filed the aforementioned petition under Sections 166 and 163A of the Motor Vehicles Act claiming compensation of Rs.1,60,00,000/- for the death of their daughter in a road accident which took place at about 2.30 a.m. This petition was filed in the year 2020. Subsequently, in the year 2024, the sister of the deceased had been impleaded as third respondent. It is also to be noted that for the very same accident, yet another claim petition had been filed for the death of one further passenger, Divyadarshini and her parents had filed MCOP No.234 of 2020 which came before the Motor Accident Claims Tribunal, Special District Judge, Salem. Independent of the present appeal, with respect to the Award passed in MCOP No.234 of 2020, the insurance company had filed CMA No.102 of 2024 and the claimants had filed CMA No.287 of 2023. It is to be noted that with respect to the same accident, claim petitions had been filed, one in Chennai and another in Salem and this led to two separate Awards being passed by two separate Tribunals.

3.The deceased who were passengers along with their co-employees, all employed in Hexaware Technologies Ltd., as Software Engineers, in a Hyndai i20 Car bearing registration No.TN 14 J 2072 proceeded from Chennai to Kancheepuram main road. While it neared Sai Hospital at Kancheepuram, a Tipper Lorry bearing registration No.TN 19 AJ 4818 driven according to the claimants in a rash and negligent manner dashed behind the Car. Consequently, the Car was thrown off the road and crashed against the divider wall. Owing to the accident, two of the passengers died, namely, Raghavi, for whom a claim petition had been filed and the consequent Award is the subject matter in the appeal in CMA No.136 of 2026 and also Divyadharshini for whom also a claim petition had been filed and the consequent Award is the subject matter in the appeal in CMA No.287 of 2023.

4.It had been contended that the deceased Raghavi was working as an Assistant Software Engineer at Hexaware Technologies Ltd and was earning about Rs.2,50,000/- per annum and was aged about 25 years. It was also claimed that she was a resource person for a totally different entity called Vidya Yuvakendra Foundation and was earning Rs.12,500/- per month. The deceased Divyadharshini was working as Associate Software Engineer and was earning about Rs.35,000/- per month. She was aged about 27 years.

5.It was claimed that the accident had occurred only due to the rash and negligent manner in which the Tipper Lorry was driven, owing to which it dashed against the Car in which the deceased were travelling.

6.Counter had been filed by the insurance company in both the claim petitions denying and disputing the manner in which the accident had occurred. The quantum of compensation claimed was also disputed.

7.One of the issues framed for consideration was whether the Tipper Lorry was the cause for the accident. After analysis of the evidence on record, the Tribunal had held that the Tipper Lorry was the cause for the accident. This conclusion was drawn on the basis of evidence of three witnesses who were examined as PW1 to PW3 and on the basis of 33 documents marked as Ex.P1 to Ex.P33. Before the Tribunal, the respondent had examined two witnesses, RW1 and RW2 and marked Exs.R1 and R2 documents. In MCOP No.234 of 2020, two witnesses were examined as PW1 and PW2 and 16 documents were marked as Exs.P1 to P16. On the side of the respondent, RW1 was examined and three documents were marked as Exs.R1 to R3.

8.It is to be noted that the Tipper Lorry had dashed the Car from behind in which the deceased were travelling and *prima facie* negligence was fixed on the driver of the Tipper Lorry. It was initially contended that the Tipper Lorry was not involved in the accident, but subsequently during the evidence, it had come to light that it was the driver of the Tipper Lorry who was responsible for the accident.

9.In MCOP No.82 of 2020, one of the witnesses, PW2 was an eye witness who was the driver of the Car and who also suffered injuries. PW3 was the officer from Hexaware Technologies Ltd. The respondent examined RW1, Sampath driver of the Tipper Lorry and RW2 Manickam, the Assistant Manager of the 4th respondent company therein. But it must be noted that RW1 Sampath was not examined in the parallel MCOP No.234 of 2020 before the MACT, Salem. Therefore, while delivering the Award, the Tribunal in MCOP No.234 of 2020 had come to a very definite conclusion that the Tipper Lorry bearing registration No. TN 19 AJ 4818 was the cause for the accident and that the driver had driven in a rash and negligent manner and caused the accident.

10.Subsequently, the Trial in MCOP No.82 of 2020 was conducted and during the proceedings of this trial, RW1, Sampath, the driver of the Tipper Lorry was examined. We hold that the evidence of RW1 will necessarily have to be rejected as having been adduced only to get over the Award passed in MCOP No.234 of 2020, in which the claim of the legal heirs of Divyadharshini was examined by the MACT Salem.

11.In MCOP No.234 of 2020 before MACT Salem, the insurance company/appellant had not disputed the involvement of the Tripper Lorry bearing registration No.TN 19 AJ 4818 and had also not produced any credible evidence to dispute the contention of the claimants therein that said Tipper Lorry had caused the accident. It is also to be noted that after investigation, final report had also been filed determining the driver of the Tipper Lorry as the accused who was the cause for the accident. The eye witness was actually the driver of the Car and he also spoke about the said involvement of the Tipper Lorry in the accident. It is thus evident that it was the Tipper Lorry bearing registration No.TN 19 AJ 4818 which was involved in the accident. We hold accordingly and confirm the finding of the Tribunal in that regard.

12.MCOP No.82 of 2020/CMA No.136 of 2026:

With respect to the quantum, arguments had been advanced before this Court about the income earned from Vidya Yuvakendra Foundation, wherein, the deceased Raghavi was said to be a resource person. However, the said foundation was admittedly run by the father of the deceased. The Income Tax Return of the foundation had not been filed as a document. A mere certificate signed by the claimant/father of the deceased indicating that a sum of Rs.12,500/- per month was being paid to the deceased had been produced. However, no other document had been produced and no witness had been examined to substantiate the said assertion. The father of the deceased was also not deposed about the nature of the work done by the said foundation or the nature of the work done by the deceased in the foundation. The nature of the employment was also not disclosed. We would therefore reject the documents produced. Only a salary slip and appointment order alone had been produced as documents and in the absence of any supporting evidence for the same, we reject the said documents.

13.We would confine ourself to the income earned by the deceased in Hexaware Technologies Ltd for which evidence had been adduced and documents had been produced. We would not reduce the annual income earned by the deceased from Hexaware Technologies Ltd and take the entire income as the income earned by her in the employment. According to the documents produced, she was earning Rs.2,49,790/- at Hexaware Technologies Ltd and in this connection, Ex.P21 - Form 16 for the Assessment Year 2019-2020 and Ex.P20 - the payslips for the month of March to June 2019 had been produced. The annual income of Rs.2,49,793/- would indicate that it was less than the taxable income of Rs.2,50,000/- and therefore, we would not reduce any amount towards income tax.

14.With respect to the nature of the employment, Ex.P19 had been produced and we had a careful perusal of the document. Ex.P19 would indicate that the age of the retirement from services is 58. This would indicate that there was job permanency for the deceased in the employment of the said company. Further, it had also been provided that all female employees who complete a minimum of 80 working days would be eligible for maternity benefits and additionally, those who adopt a child would also be entitled for maternity benefits and those who get a child through surrogacy would also be entitled for maternity benefits. These clauses indicate that the nature of the employment was permanent in nature. There is no indication in the appointment order that it was a contract or that it was for a limited period. The very fact that the retirement age was indicated would show that the employment would be extended till the age of retirement/58 years. We would therefore hold that Ex.P19 indicates that the employment is permanent in nature.

15.The Tribunal while deciding the future prospects had granted 40% towards future prospects. We would interfere with the same in both the awards and direct 50% to be granted towards future prospects in accordance with the judgment in ***National Insurance Co. Ltd. v. Pranay Sethi and others, reported in 2017 (2) TN MAC 609 (SC).***

16.It is to be seen that the sister of the deceased was subsequently impleaded as an after thought only in the year 2024 and not when the petition was filed in the year 2020. She had also crossed the age of 18 and cannot be considered as a minor and as a dependent on the deceased Raghavi. It is also to be noted that the father who claimed to be running Vidya Yuvakendra Foundation has separate income and it would be possible for him to maintain the younger sister. The said third claimant/younger sister would be dependent only of the father and not of the deceased. Hence, we would allow the claim filed by the parents and dismiss the claim of the sister.

17.The compensation granted in MCOP No.82 of 2020 is modified as follows:

1.Loss of Income/Dependency **	::	Rs.33,72,210/-
2.Loss of Estate	::	Rs.15,000/-
3.Loss of Consortium (40,000 x 2)	::	Rs.80,000/-
4.Funeral Expenses	::	Rs.15,000/-

5.Transportation charges including damages to personal belongings	::	Rs.10,000/-
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Compensation payable	::	**Rs.34,92,210/-**

**Annual Income	:	Rs. 2,49,793/-
Add: Future Prospects 50% of Rs.2,49,793/-	:	Rs. 1,24,896/-

		Rs. 3,74,689/-
Less: Personal expenses [3,74,689*50%]	:	Rs. 1,87,344/-

		Rs. 1,87,345/-
Multiplier		x 18

Loss of dependency	:	**Rs.33,72,210/-**

18.<u>MCOP No.234 of 2020/CMA No.287 of 2023 & CMA No.102 of 2024:</u>

With respect to the quantum, Form 16 had been marked as Ex.P14. This reveals that the gross annual income of the deceased Divyadharshini was Rs.2,49,520/-. The claimants have also marked the pay slips for the months of May 2019 and June 2019. Though in the payslip of May 2019, shift allowance is shown as Rs.2,500/-, for the next month, it had been revised to Rs.6,500/-. However, we have carefully perused the Form 16 as well as the pay slips and we are of the view that fixing the monthly income as per the last pay drawn in the month of May 2019 would be appropriate. Since the annual income has only marginally crossed Rs.2,50,000/-, we are not inclined to apply the Income

Tax slab strictly since it is compensation granted to the claimants who had lost their daughters at a very early age.

19.The compensation granted in MCOP No.234 of 2020 is modified as follows:

1.Loss of Income/Dependency **	::	Rs.30,21,750/-
2.Loss of Estate	::	Rs.15,000/-
3.Loss of love and affection (40,000 x 2)	::	Rs.80,000/-
4.Funeral Expenses	::	Rs.15,000/-

Compensation payable	**::**	**Rs.31,31,750/-**

**Annual Income (19,750*12)	:	Rs. 2,37,000/-
Add: Future Prospects 50% of Rs.2,37,000/-	:	Rs. 1,18,500/-

		Rs. 3,55,500/-
Less: Personal expenses [3,55,500*50%]	:	Rs. 1,77,750/-

		Rs. 1,77,750/-
Multiplier		x 17

Loss of dependency	**:**	**Rs.30,21,750/-**

20.In the result, CMA No.136 of 2026 stands partly allowed. The compensation of **Rs.49,46,000/-** awarded by the Tribunal is hereby reduced to

Rs.34,92,210/-. The appellant Insurance Company is directed to deposit the reduced compensation of **Rs.34,92,210/-** less the amount already deposited, together with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. On such deposit being made, the first and second claimants are permitted to withdraw the same equally, along with accrued interest and costs, less the amount, if any already withdrawn by them, by filing necessary application before the Tribunal. Any excess amount deposited by the appellant Insurance Company should be refunded by the Tribunal.

21.CMA No.102 of 2024 stands dismissed. CMA No.287 of 2023 stands allowed. The compensation of **Rs.16,97,000/-** awarded by the Tribunal is hereby enhanced to **Rs.31,31,750/-.** The Insurance Company is directed to deposit the enhanced compensation of **Rs.31,31,750/-** less the amount already deposited, together with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made by the Insurance Company, the claimants are permitted to withdraw the same along with accrued interest and costs, less the amount, if any already withdrawn by them, as apportioned by the Tribunal, by filing necessary application before the Tribunal. Additional Court fees, if any, to be paid by the claimants on the enhanced compensation.

22.Accordingly, CMA No.136 of 2026 stands partly allowed. CMA No.102 of 2024 stands dismissed. CMA No.287 of 2023 stands allowed. No costs. Consequently, connected miscellaneous petitions, if any, are also closed.

(C.V.K.,J.) (K.R.S.,J.)
16-06-2026

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

To

1.The MACT, Chief Court of Small Causes,
Chennai.

2.The Motor Accident Claims Tribunal,
Special District Judge, Salem.

C.V.KARTHIKEYAN J.
AND
K.RAJASEKAR J.

SLI

CMA Nos. 287 of 2023, 102 of 2024 and 136 of 2026

16-06-2026