

C.M.A. (MD) No. 376 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

Reserved on : 05.06.2026

Pronounced on : 24.07.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD) No.376 of 2025

1.C.Ramesh

2.R.Malliga

... Appellants/
Petitioners

Vs.

1.D.Eugeth Daniel

2.The Branch Manager,
New India Assurance Co., Ltd.,
No.43a/2, Promenade Road,
Cantonment,
Trichy-620001.

... Respondents/
Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order dated 26.11.2024 passed in M.A.C.O.P.No.665 of 2021 on the file of learned Motor Accidents Claims Tribunal Tiruchirappalli and enhance the award amount.



WEB COPY



C.M.A. (MD) No. 376 of 2025

For Appellant : Mr.J.K.Jayaseelan

For Respondents : Mr.E.Chandrasekaran for R2

No appearance for R1

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.665 of 2021 dated 26.11.2024 on the file of the Motor Accident Claims Tribunal / Special District Court to deal with MCOP cases, Tiruchirappalli.

2. The appellants / claimants, who were awarded with compensation of Rs.11,89,000/- (Rupees Eleven Lakhs and Eighty Nine Thousand only) with interest and costs payable by the second respondent / insurer, for the death of Kishore, consequent to an accident occurred on 14.03.2020, challenged the contributory negligence fixed at 50% on the deceased and also the quantum of compensation awarded at, by the Tribunal and claimed enhancement of the same.

3. The learned counsel appearing for the appellants / claimants would contend that the Tribunal, after giving a specific finding that the



C.M.A. (MD) No. 376 of 2025

WEB COPY

accident was occurred only due to the rash and negligent driving of the first respondent's vehicle driver, by observing that the deceased was only possessing learner's licence and the condition attached to the learner's licence that the rider should be accompanied and guided by a person with driving licence has been violated, fixed the negligence on the deceased at 50%, that the second respondent / insurer has not taken any specific defence that possessing learner's licence only by the deceased had contributed to the accident, that the first respondent / owner of the vehicle had remained ex-parte and that the Tribunal, without considering the material aspects, has erroneously mulcted contributory negligence at 50% on the deceased.

4. No doubt, as rightly pointed out by the learned counsel appearing for the appellants / claimants, the Tribunal, on the premise that the deceased was holding only a learner's licence and that one of the conditions governing such licence is that the learner must be accompanied and supervised by a person holding a valid driving licence, found that the said condition had not been complied with. The Tribunal further observed that, had the deceased ridden the vehicle at a moderate speed under the



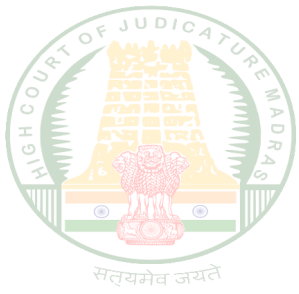
C.M.A. (MD) No. 376 of 2025

WEB COPY

guidance of a duly licensed person, the accident could have been avoided and that the Tribunal, on the said reasoning, attributed 50% contributory negligence to the deceased.

5. The learned counsel appearing for the appellants / claimants placed reliance on the judgment of the Hon'ble Supreme Court in ***Srikrishna Kanta Singh Vs. The Oriental Insurance Company Ltd., and others*** reported in ***2025 LiveLaw (SC) 352***, wherein, the Hon'ble Apex Court has specifically held that contributory negligence cannot be presumed merely on the ground that the driver's was holding a learner's license and the relevant portion is extracted hereunder:

“13. Now, we come to the question of whether negligence can be found on the ground of the driver of the scooter having only a learners licence. We have already found that the finding of the High Court that the B.D.O. had exercised his authority to travel pillion, despite being aware of the driver holding only a learners licence, besides being far- fetched is not supported by any evidence. Sudhir Kumar Rana v. Surinder Singh (2008) 12 SCC 436 was a case in which the claimant, a minor of 17 1/2 years, met with an accident while riding a two wheeler, which collided with a mini truck. Holding that



WEB COPY



C.M.A. (MD) No. 376 of 2025

ordinarily, negligence is only a question of fact, it was found that when a person drives a vehicle without a licence, he commits an offence, which by itself cannot lead to a finding of negligence, leading to or as regards, the accident. Having found the trailer to be driven rashly and negligently, we do not think that the mere fact that the driver of the scooter had only a learners licence would necessarily lead to a conclusion of contributory negligence on the part of the scooter driver. There can be no negligence found on the scooter driver also by the mere fact that the accident occurred on a collision at the tail-end of a long trailer, when the scooter driver had better visibility; which is a question of fact liable to be proved and not merely presumed.”

6. The above decision squarely applies to the facts of the present case. In the present case also, the Tribunal, on an appreciation of the evidence available on record, has categorically held that the accident occurred due to the rash and negligent driving of the driver of the first respondent's vehicle, having recorded such a finding, the Tribunal was not justified in attributing contributory negligence to the deceased merely on the ground that he was holding only a learner's licence. The mere possession of a learner's licence, by itself, cannot lead to an inference of

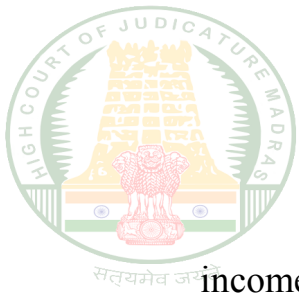


C.M.A.(MD)No.376 of 2025

WEB COPY

contributory negligence. Except for the fact that the deceased was holding a learner's licence, there is no evidence on record to show that any rash or negligent act on the part of the deceased had contributed to the occurrence of the accident. In the light of the legal position laid down by the Hon'ble Supreme Court in the above decision, this Court has no hesitation in holding that the finding of the Tribunal attributing 50% contributory negligence to the deceased is legally unsustainable and is, therefore, liable to be set aside.

7. Turning to the quantum of compensation, the learned counsel appearing for the appellants / claimants would submit that the Tribunal, without any basis, fixed the notional monthly income of the deceased at Rs.15,000/-, that the Tribunal ought to have applied cost inflation index on the date of accident as per the judgment of this Court in ***Andal and others Vs. Avinav Kannan and others reported in 2019 (1) TN MAC 54***, that the Tribunal has completely misconstrued the judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***2017 (2) TN MAC 609 (SC)***, wherein, the Hon'ble Apex Court held that future prospects are to be added to the



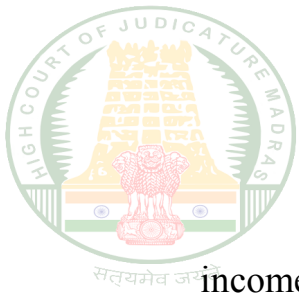
C.M.A. (MD) No. 376 of 2025

WEB COPY

income of the deceased, that the Tribunal ought to have fixed the notional monthly income of the deceased as Rs.25,000/-, that the Tribunal ought to have awarded Rs.2,00,000/- towards loss of love and affection to the appellants / claimants and that the total compensation awarded at Rs.11,89,000/- is very much meagre and the same is liable to be enhanced.

8. It is the specific case of the appellants / claimants that the deceased was aged 18 years and was studying 1st year B.Sc. (Statistics) at St. Joseph College, Trichy and that he was taking part time tuition and was earning Rs.25,000/- per month.

9. The appellants / claimants have also produced documents under Ex.P10 to Ex.P17 to show that the deceased was a sports man and won in several competitions. As rightly observed by the learned trial Judge, the appellants / claimants have not produced any iota of materials to prove the income of Rs.25,000/-. The learned trial Judge has referred the judgment of this Court in *New India Assurance Co. Ltd., Vs. K.Velmurugan and others* reported in **2021 (1) TN MAC 727**, relied on by the learned counsel appearing for the appellants / claimants, wherein, the notional monthly



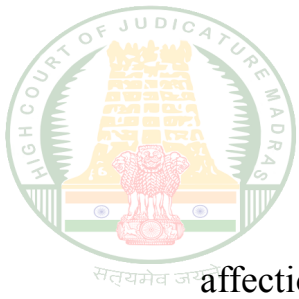
C.M.A. (MD) No. 376 of 2025

WEB COPY

income of an Engineering final year student was fixed at Rs.25,000/-, but the Tribunal, taking note of the fact that the deceased was only a 1st year student and the accident was occurred in 2020, has fixed the notional monthly income of the deceased at Rs.15,000/- and the same cannot be found fault with.

10. The Tribunal, taking note of the decision of the Hon'ble Supreme Court in ***Pranay Sethi's case***, has rightly added 40% of the income towards future prospects. Since the deceased was a bachelor, the Tribunal has rightly deducted 50% of the income towards personal and living expenses of the deceased. The Tribunal, as per the decision of the Hon'ble Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another*** reported in ***AIR 2009 SC 3104***, has rightly applied multiplier 18. Hence, the compensation towards loss of dependency assessed at Rs.22,48,000/- cannot be found fault with.

11. The appellants / claimants being the parents of the deceased are certainly entitled to get Rs.40,000/- each towards loss of filial consortium but the Tribunal has awarded Rs.80,000/- towards loss of love and



C.M.A. (MD) No. 376 of 2025

WEB COPY

affection and the same cannot be faulted. The Tribunal has also awarded Rs.15,000/- for loss of estate and Rs.15,000/- for funeral expenses under the conventional heads. Hence, the total compensation assessed at Rs.23,78,000/- is just and reasonable and the same cannot said to be on lesser side.

12. As already pointed out, since the Tribunal has mulcted contributory negligence at 50% on the deceased, directed the second respondent / insurer to pay the balance 50% of the amount i.e., Rs.11,89,000/- to the appellants / claimants, but in the appeal, since this Court has already set aside the finding of the Tribunal in fastening contributory negligence on the deceased, the appellants / claimants are entitled to get the entire compensation assessed by the Tribunal.

13. Considering the other facts and circumstances of the case, the parties are to be directed to bear their own costs.

14. In the result, this Civil Miscellaneous Appeal is partly allowed. The finding of the Tribunal with regard to contributory negligence fixing 50% on the deceased is hereby set aside. The second respondent / insurer



C.M.A. (MD) No. 376 of 2025

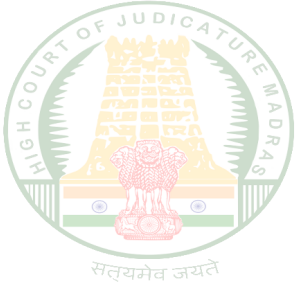
WEB COPY

is directed to deposit the entire compensation amount of Rs.23,78,000/- (Rupees Twenty Three Lakhs and Seventy Eight Thousand only) with interest at 7.5% per annum and costs from the date of petition till the date of realization excluding the default period, if any, to the credit of M.C.O.P.No.665 of 2021 on the file of the Motor Accident Claims Tribunal / Special District Court No.I to deal with MCOP cases, Tiruchirappalli, after deducting the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. Out of the said compensation amount, the first appellant / first claimant is entitled to get **Rs.15,78,000/- (Rupees Fifteen Lakhs and Seventy Eight Thousand only)** and the second appellant / second claimant is entitled to get **Rs.8,00,000/- (Rupees Eight Lakhs only)**. On such deposit being made, the appellants / claimants are permitted to withdraw their shares as per the apportionment fixed by this Court together with interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. The parties shall bear their own costs.

24.07.2026

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

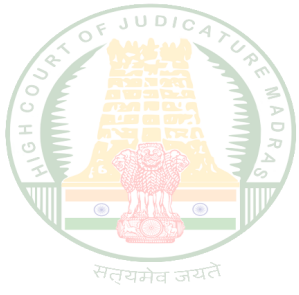
10/12



C.M.A. (MD)No.376 of 2025

WEB COPY
To

- 1.The Special District Judge,
Special District Court No.I to deal with MCOP cases,
Motor Accident Claims Tribunal,
Tiruchirappalli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A. (MD)No.376 of 2025

K.MURALI SHANKAR,J.

csn

**Pre-Delivery Judgment made in
C.M.A.(MD)No.376 of 2025**

Dated : 24.07.2026