

C.M.A(MD)No.83 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **20.02.2026**

Pronounced on : **20.04.2026**

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A(MD)No.83 of 2025

and

C.M.P(MD)Nos.1299 and 13201 of 2025

M/s.National Insurance Company Limited,
Represented Through its Divisional Manager
Divisional Office,
Door No.3, North Veli Street,
Madurai - 625 001.

...Appellant/Respondent No.2

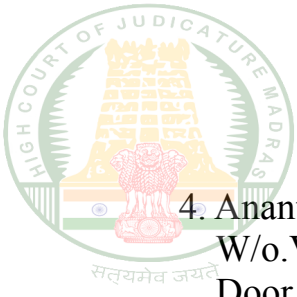
Vs.

1.P.Saravanan,
S/o. Palaniyandi,
Door No.1/82, Vaithyanathapuram Colony,
Varichiyur,
Madurai - 625 020.

...1st Respondent/Petitioner

2. K.Malaichamy,
S/o. Kalanai,
Door No.1/59, Keela Poovanthi,
Manamadurai Taluk,
Sivagangai District

3. Valli,
W/o. Late. K.Palaniyandi,
Door No.4/129, Krishnankoil Street,
Rengarajapuram, Pothumbu Post,
Madurai District.



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4. Ananthi,
W/o.Vetrivel and D/o. Late. K.Palaniyandi,
Door No.4/129, Krishnankoil Street,
Rengarajapuram, Pothumbu Post,
Madurai District.

5. P.Vishvakumar,
S/o. Late. K.Palaniyandi,
Door No.4/129, Krishnankoil Street,
Rengarajapuram, Pothumbu Post,
Madurai District.

6. P.Raja,
S/o. Late. K.Palaniyandi
Door No.4/129, Krishnankoil Street,
Rengarajapuram, Pothumbu Post,
Madurai District.

7. P.Arunkumar,
S/o. Late. K.Palaniyandi,
Door No.4/129, Krishnankoil Street,
Rengarajapuram, Pothumbu Post,
Madurai District.

...Respondent Nos.2 to 7/
Respondent Nos.1, 3 to 7

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act 1988, to set aside the judgment passed by the Motor Accident Claims Tribunal cum Special District Court to deal with Motor Accident Cases, Madurai, made in M.C.O.P.No.1784 of 2021, dated 01.03.2024 and allow this appeal with costs.

For Appellant	: Ms.P.Malini
For R1	: Mr.A.Theethar
For R2	: No Appearance
For R3 to R7	: Mr.S.M.Mohand Gandhi



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JUDGMENT

This Civil Miscellaneous Appeal is preferred against the award, dated 01.03.2024 passed in M.C.O.P.No.1784 of 2021 by the Motor Accident Claims Tribunal/Special District Court to deal with MCOP Cases, Madurai.

2.The appellant herein is the 2nd respondent/Insurance company in M.C.O.P.No.1784 of 2021. The 1st respondent herein is the petitioner/claimant and the respondents 2 to 7 are the 1st respondent and respondents 3 to 7 in M.C.O.P.No.1784 of 2021.

3.For the sake of convenience, the parties as arrayed in M.C.O.P.No.1784 of 2021 are adopted hereunder.

4.The brief facts of the case:

On 19.10.2019 at about 20.30 hours, the deceased Palaniyandi was walking along Karuppayurni to Sivagangai main road near R.K.Weighbridge from east to west by keeping the left side of the road. Whiles, the 1st respondent's vehicle bearing registration number TN 63 AK 1978 coming from the opposite direction in rash and negligent manner dashed against the



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deceased. Due to the impact, the deceased sustained multiple grievous injuries all over the body. Immediately, he was admitted in the Government Rajaji Hospital, Madurai on 19.10.2019 and took treatment as an inpatient till 15.11.2019, on which date the deceased died despite of treatment. An F.I.R. in Crime No.183 of 2019 U/s.279, 337 and 304(A) of IPC was registered against the driver of the 1st respondent. The deceased was aged 60 years and was earning Rs.10,000/- p.m. as a Watchman in Rukmani Polytechnic College, Varichiyur, Madurai. The offending vehicle was insured with the 2nd respondent/National Insurance Company. The petitioner is the son of the deceased through the 2nd wife, Panjavarnam, who already died. The respondents 3 to 7 are the wife and children of the deceased Palaniyandi. Hence, the petitioner filed a claim petition seeking compensation of Rs.15,00,000/- for himself and respondents 3 to 7.

5.The 1st respondent remained ex-parte.

6.The second respondent objected to the claim petition by contending that the 1st respondent's driver was driving the lorry at a moderate speed by observing traffic rules. The deceased, who was walking on the road, voluntarily invited the accident without noticing the oncoming vehicle. The accident happened due to the negligence of the deceased himself.



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So, the 1st respondent's vehicle is not responsible for the accident.

Hence, the second respondent is not liable to pay any compensation.

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7.The respondents 3 to 7 filed a counter and stated that the petitioner is not the legal heir of deceased Palaniyandi and that there is no relationship between the petitioner and these respondents. This petition has been filed concealing true information.

8.Before the Tribunal, the petitioner/claimant examined two witnesses as P.W.1 and P.W.2 and marked nine documents as Ex.P.1 to Ex.P.9. On the respondents' side, R.W.1 was examined and Ex.R.1 to Ex.R.14 were marked.

9.After hearing both sides and after considering the evidence, the Tribunal has held that the accident took place due to the negligence of the driver of the 1st respondent's vehicle. The Tribunal has considered the age of the deceased and awarded a total compensation of Rs.15,72,512/- under various heads.

10.Aggrieved by the said award, the 2nd respondent/Insurance Company has preferred this Civil Miscellaneous Appeal.



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11.The short issue which has to be considered is whether the compensation has to be reduced?

12.Heard both sides and perused the records in this Civil Miscellaneous Appeal.

13.On hearing both sides and on perusal of records, there is no dispute that the accident took place due to the negligence of the driver of the 1st respondent's vehicle bearing registration No.TN 63 AK 1978. There is no dispute that the 1st respondent's vehicle was insured with the appellant/2nd respondent and hence, the appellant/2nd respondent is liable to pay compensation. Therefore, the finding of negligence upon the 1st respondent's vehicle driver and the liability of the 2nd respondent/insurance company, as concluded by the Tribunal, is confirmed. The only dispute is with regard to the quantum of compensation arrived at by the Tribunal.

14.The learned counsel for the appellant/2nd respondent/Insurance Company has argued that the petitioner himself stated in his petition as well as in his evidence that the deceased was earning Rs.10,000/- p.m. But the Tribunal has fixed notional income at Rs.14,572/-, taking into consideration



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the cost of inflation index as settled in the Andal case by observing that the petitioner has not produced any income certificate. The income fixed by the Tribunal is incorrect as the petitioner himself admitted Rs.10,000/- p.m. as income of the deceased. The petitioner has produced the family card of the deceased as Ex.P.3, which was issued in 2005. According to Ex.P.3, the deceased's age was 54 in 2005, since the accident took place in 2019, so the deceased's age is 68, but the Tribunal has failed to appreciate Ex.P.3 and incorrectly held the age of the deceased as 60. So, the income of the deceased has to be taken as Rs.10,000/- p.m., and there can be no future prospect as the age of the deceased is 68 and the multiplier should be taken as '7'. Therefore, the loss of income arrived at by the Tribunal is not correct and the same has to be reduced. In other respects, there is no serious objection regarding the compensation awarded under other heads.

15.The learned counsel appearing for the petitioner/claimant states that the Tribunal has correctly fixed the age of the deceased as 60 years based on Ex.P.2 - Post mortem certificate and Ex.R.3 - Death certificate. In the absence of any income proof, the Tribunal has correctly fixed the notional income as Rs.14,562/- as per the judgment of this Court in the **Andal case** reported in **2019(1) TN MAC 54 (Mad)**, taking into account the inflation index. Hence, 10% future prospect is also correctly taken into account.



The deceased's age is 60 years and hence, the correct multiplier is '9' for age 60.

16.On perusal of the records, though the petitioner has stated that the deceased was working as a Watchman in a Polytechnic College and was earning Rs.10,000/- p.m., he has not produced any material to prove the same. Without any income proof, as per the settled proposition of law in **Sarala Verma case and Pranay Sethi case**, the notional income would be Rs.6,500/- in the year 2007-2008. The Tribunal has correctly taken the notional income as Rs.6500/- and also taking into account the inflation of price index as settled by this court in **Andal's case** reported in **2019 (1) TNMAC 54 (Mad)** fixed the same at Rs.14,562/- p.m. ($\text{Rs.6,500/-} \times 289/129 = \text{Rs.14,562/-}$). Though Ex.P.3 - Family card shows the age of deceased as 54 in 2005, the same cannot be taken as correct, because the family card would not show the correct age and it is meant only for resident proof. It is a settled position that the age has to be fixed as mentioned in the postmortem certificate and the death certificate. Therefore, based on Ex.P.2 - Post mortem certificate, the age of the deceased is mentioned as 60. The respondent has not placed any contra citation or material to fix Rs.10,000/- as income of the deceased. Hence, the age of the deceased was correctly held by the Tribunal as 60 and the Tribunal correctly added 10% income towards future prospects



and arrived at Rs.16,018/- (Rs.14,562/- + Rs.1,456/- (10% of Rs.14,562/-)).

After deducting personal expenses of 1/4 at Rs.4,004/-, the Tribunal has correctly fixed the loss of income of the dependents of the deceased as Rs.12,014/- p.m. (Rs.16,018/- minus Rs.4,004/-) as loss of income towards the petitioner/claimant. In this case, the deceased was aged 60, so the multiplier '9' adopted by the Tribunal is correct. So, the loss of income of the dependents is Rs.12,014/- x 12 x 9 = Rs.12,97,512/-.

17. There is no dispute that the deceased was a family man who had a wife and children. The 3rd respondent is the wife of the deceased and the petitioner and the respondents 4 to 7 are his children. On perusal of the award, the Tribunal has correctly awarded Rs.40,000/- towards spousal consortium to the 3rd respondent and awarded Rs.40,000/- each to the petitioner and the respondents 4 to 7 who are alone surviving dependents of the deceased. The Tribunal has correctly awarded Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses and Rs.5,000/- towards transport expenses. Regarding subsequent interest, there is no objection raised by the appellant/2nd respondent/Insurance Company. Therefore, considering the above facts and circumstances, this Court holds that the Tribunal has awarded just compensation and the same does not warrant any interference. The apportionment allowed by the Tribunal is correct as there is



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no irregularity. Therefore, the compensation awarded by the Tribunal is held correct and the same is not liable to be set aside.

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18.In the result, this Civil Miscellaneous appeal is dismissed and the award, dated 01.03.2024 passed in M.C.O.P.No.1784 of 2021 by the Motor Accident Claims Tribunal/Special District Court to deal with MCOP Cases, Madurai is confirmed. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

20.04.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

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



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P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
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