

Moosa Vs The Correspondent

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Court : Chennai

Decided On : Jun-16-2026

Judge : Honourable Mr Justice a.D.Jagadish Chandira

Appeal No. : CMA/1642/2026

Appellant : Moosa

Respondent : The Correspondent

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2026

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

1.Moosa 2.Amennabee 3.Apsar 4.Akthar 5.Afsana ..Appellants Vs. 1.The Correspondent, Vignesh International School, Melputhiyandal Village. 2.The Divisional Manager, The United India Insurance Company Ltd., D.K.M. Complex, First Floor, Katpadi Road, Vellore - 4, Vellore District. ..Respondents Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the appeal and

enhance the compensation in M.C.O.P.No.1110 of 2022 dated 21.04.2023 on the file of Page1 of 13

the Motor Accidents Claims Tribunal/Additional District Court, Tiruvannamalai. For Appellants: Mr.S.Panneerselvam For Respondent(s): Mr.D.Bhaskaran (For R2)

JUDGMENT

Challenging the Award passed by the learned Additional District Judge, Motor Accident Claims Tribunal, Tiruvannamalai, in M.C.O.P.No.1110 of 2022 dated 21.04.2023, the claimants have approached this Court with this appeal seeking enhancement of compensation.

2.1 The brief facts leading to the filing of this appeal are as follows:- 2.2 The appellants are the father, mother, brothers and sister of the deceased Askar, who died due to fatal injuries suffered in a road accident on 16.08.2016. 2.3 On 16.08.2016 at about 8.30 hours, when the deceased was travelling on a two wheeler bearing registration No.TN-25-BA-6410 along

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with his father as pillion rider from Vettavalam towards his village Thiruvidadhanur, a school van bearing registration No.TN-20-BP-8282, driven in a rash and negligent manner in the same direction, dashed behind the two wheeler driven by the deceased. As a result, the deceased sustained multiple fractures i.e., on right and temporal bones, right occipital bones, fracture on left shoulder, right big toe and injuries on head, right shoulder, left foot and injuries all over the body and died on the spot. 2.4 Alleging that the rider of the school van was responsible for the accident, the Claim Petition was filed by the appellants as legal heirs of the deceased. They arrayed the owner of the said van as the first respondent and the Insurance Company with which the offending vehicle

was insured as the second respondent. The appellants alleged that the owner of the vehicle and the Insurance Company are jointly and severally liable to pay compensation to them. 2.5 The appellants claimed that the deceased was working as a Chief Cook in a private hotel in Kerala and was earning a monthly income of Rs.20,000/-. The deceased is the sole breadwinner of his family and the accident occurred only due to the rash and negligent act of the driver of the school van. Page3 of 13

2.6 The first respondent/owner of the vehicle filed a counter affidavit stating that the claim of compensation as against the first respondent is neither maintainable in law nor on facts. The vehicle belonged to the first respondent and the same was duly insured with the second respondent, which policy was in subsistence at the time of accident. Further, the deceased drove the vehicle in a rash and negligent manner and dashed against the school van. 2.7 The second respondent/Insurance Company filed a counter affidavit contesting the Claim Petition on the ground that the school van involved in the accident was not insured with the second respondent and the deceased does not possess a valid license to drive the motorcycle.

3. In order to prove their claim, the first appellant/father of the

deceased examined himself as P.W.1 and marked Exs.P.1 to P.7. One Venkatesan and Abdul Kapoor were examined as P.W.2 and P.W.3 respectively. On the side of the respondents, there is no oral or documentary evidence. Page4 of 13

4. The Tribunal framed the following points for consideration:-

- a. Whether the accident took place due to the rash and negligent driving of the driver of the school van bearing Registration No.TN-20-BP-8282?
- b. Whether the respondents 1 and 2 are jointly and severally liable to pay the compensation to the petitioners?
- c. What is the quantum of compensation, the petitioners are entitled to?

5. The Tribunal, after considering the materials available on record,

concluded that the driver of the school van bearing Registration No.TN-20-BP-8282, insured with the second respondent/Insurance Company, had driven the vehicle in a rash and negligent manner and hit the deceased, resulting in his death. The Tribunal further held that though the first respondent alleged that the rider of the two wheeler also contributed to the accident by way of his rash and negligent driving, there is no rebuttal evidence on the side of the respondents to prove the contributory negligence on the part of the rider of the two wheeler (deceased) and hence, the driver of the van is solely responsible for the

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accident.

6. Based on Ex.P.2 - Copy of Postmortem Certificate, the age of the

deceased was stated as 25 years. As per Ex.P.4 - Driving License of the deceased, the date of birth of the deceased was established as 17.03.1991. Considering the date of accident as 16.08.2016, the Tribunal fixed the age of the deceased as 25 years 4 months and 30 days at the time of the accident.

7. Furthermore, based on the other documents, the Tribunal

concluded that the appellants had not produced any documentary evidence to prove that the deceased was earning Rs.20,000/- per month as a Chief Cook in a private hotel in Kerala. However, since there was no contra evidence on the side of the respondents in respect of the income of the deceased, the Tribunal fixed the notional income at Rs.10,000/- per month. The Tribunal also computed future prospects, deducted personal expenses and awarded compensation for loss of estate, loss of love and affection and funeral expenses, rounding off the total compensation to Rs.16,58,000/-.

8. Aggrieved by the non-grant of just compensation, the appellants have preferred the present appeal.

9. Mr.S.Panneerselvam, learned counsel for the appellants,

contended that the deceased was aged 25 years at the time of accident and hence, the Tribunal erred in applying multiplier 17. Further, the notional income of Rs.10,000/- per month fixed by the Tribunal is extremely on the lower side and therefore, multiplier 18 ought to have been applied as per the decision of the Honble Supreme Court in the case of Sarla Verma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121. He further submitted that a Division Bench of this Court, in the case of Andal and others vs. Avinav Kanna and another reported in 2019

(1) TN MAC 54 (DB), had laid down a formula for calculating notional

income considering cost inflation index, cost of living, inflation and increase in price of essentials. If the said formula is applied for calculating the notional monthly income, it will come to Rs.13,302/- per month. He further contended that the Tribunal also erred in awarding 7.5% simple interest per annum on the compensation and instead, as held by the Honble Supreme Court in various judgments, the Tribunal ought to have Page7 of 13

awarded 9% interest per annum. Hence, he prayed for enhancement of compensation awarded by the Tribunal.

10. Mr.D.Bhaskaran, learned counsel for the second respondent/

Insurance Company, submitted that though the appellants claimed that the deceased was employed as a Chief Cook in a private hotel and was earning Rs.20,000/- per month, no documentary evidence was produced by the appellants to establish that the deceased was earning Rs.20,000/-

and therefore, the Tribunal has rightly fixed the notional income of Rs.10,000/- per month. Furthermore, the learned counsel submitted that compensation awarded by the Tribunal is excessive on all heads, which does not require any enhancement.

11. Heard the learned counsel on either side and perused the materials available on record.

12. This Court, by considering the materials available before it and after perusing and examining the impugned award, which is the subject matter of challenge, observes that the primary question that arises for Page 8 of 13 consideration before this Court is whether the Tribunal was correct in awarding compensation under various heads.

13. The Tribunal had fixed the notional income at Rs.10,000/- per

month, since no documentary evidence was submitted by the appellant to prove that the deceased was earning Rs.20,000/- per month. However, the Tribunal failed to consider the other factors such as rise in cost of living, inflation, minimum wages, etc., as held by the Division Bench of this Court in Andals case (cited supra). In the said case, the Division Bench had laid down a formula for calculating notional income considering cost inflation index, cost of living, inflation and increase in price of essentials. Thus, by applying the said formula, the notional monthly income of the deceased would come around Rs.13,300/- per month. Under such circumstances, this Court finds that the conclusion of the Tribunal, fixing the notional income of the deceased as Rs.10,000/- per month, is not proper and requires enhancement.

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14. Regarding the multiplier applied by the Tribunal, the appellants

contended that as per the decision of the Honble Supreme Court in Sarla Verma's case (cited supra), in which it is held that if the deceased is of

the age groups 15 to 20 years and 20 to 25 years, multiplier 18 is required to be applied. Under such circumstances, this Court finds that application of multiplier 17 by the Tribunal is also not proper.

15. In view of the aforesaid observations and findings, the award of the Tribunal is modified as hereunder:-

S.No.	Heads	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
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1.	Loss of Dependency	14,28,000	20,10,960
(Rs.13,300/- + 40% x 12 x 18 multiplier = 20,10,960)			

2.	Loss of Love and Affection	2,00,000	2,00,000
(5)			

3.	Loss of Estate	15,000	15,000
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4.	Funeral Expenses	15,000	15,000
Total		16,58,000	22,40,960

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16. At this juncture, the learned counsel for the second respondent/

Insurance Company submitted that since this Court is enhancing the compensation amount, the appellants may not be entitled to interest for the delay occurred in filing this appeal.

17. This Court, while condoning the delay in filing the present

appeal vide order dated 24.04.2026, has stated that the interest on the compensation amount for the delay period of 550 days shall stand waived. Accordingly, though this Court has enhanced the compensation amount ordered by the Tribunal, the appellants are not entitled to claim interest on the same for the delay period.

18. In the result, this Civil Miscellaneous Appeal is allowed and the

Award passed by the Tribunal is enhanced to Rs.22,40,960/- with 7.5% interest per annum from the date of petition till the date of realisation. There shall be no order as to costs. The second respondent is directed to

deposit the said enhanced award amount within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being Page11 of 13

made, the appellants are entitled to withdraw the said enhanced award amount equally, by filing appropriate petition before the Tribunal. 16.06.2026 Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No hvk To 1.The Additional District Judge, Motor Accident Claims Tribunal, Tiruvannamalai. 2.The Correspondent, Vignesh International School, Melputhiyandal Village. 3.The Divisional Manager, The United India Insurance Company Ltd., D.K.M. Complex, First Floor, Katpadi Road, Vellore - 4, Vellore District. Page12 of 13

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