

C.M.A.Nos.2756 of 2025 & 440 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on: 19.01.2026

Pronounced on: 06.03.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.Nos.2756 of 2025 & 440 of 2024 and
C.M.P. No.23324 of 2025

C.M.A. No.440 of 2024

1. K. Geetha

2. R.K. Vignesh

3. K. Mohan

4. J.K. Varsha (Minor)

(Represented by her mother R. Geetha)

5. R. Gowri

6. K. Jeevananthan (Minor)

7. K. Mahalakshmi (Minor)

(Petitioners 6 & 7 are minor, represented by their Mother in illegal child
mother Valli)

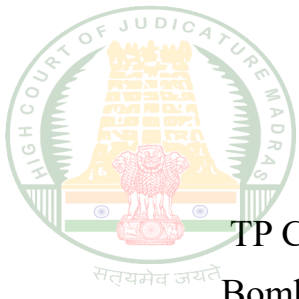
... Appellants

vs.

1. Sree Gokulam Hotel India Pvt. Ltd.,
No.14, First Avenue, Ashok Nagar,
Chennai 600 083.

2. The New India Assurance Co. Limited,

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C.M.A.Nos.2756 of 2025 & 440 of 2024

TP Claim Hub,
Bombay Mutual Buildings, 6th Floor,
N.S.C. Bose Road, Chennai 600 001

... Respondents

C.M.A. No.2756 of 2025

The New India Assurance Co. Limited,
TP Claim Hub,
Bombay Mutual Buildings, 6th Floor,
N.S.C. Bose Road, Chennai 600 001

...Appellant

Vs.

1. R. Geetha

2. R.K. Vignesh

3. K. Mohan

4. J.K. Varsha (Minor)

(Represented by her mother and natural guardian R. Geetha)

5. R. Gowri

6. K. Jeevananthan (Minor)

7. K. Mahalakshmi (Minor)

(Respondents 6 & 7 are minor, represented by their Mother and natural guardian in illegal child mother Valli)

8. Sree Gokulam Hotel India Pvt. Ltd.,

No.14, First Avenue, Ashok Nagar,

Chennai 600 083.

...Respondents

Common Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicle Act 1988, against the Award dated 17.07.2023



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passed in M.C.O.P. No.4710 of 2018 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

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C.M.A. No.440 of 2024

For Appellants : Ms. Ramya V. Rao

For Respondents : R1 – No appearance

Mr. T. Jayaraman for R2

C.M.A. No.2756 of 2025

For Appellant : Mr. T. Jayaraman

For Respondents : Ms. Ramya V. Rao for R1 to R7

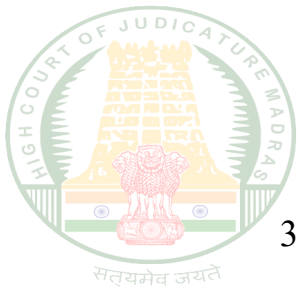
R8 – No appearance

COMMON JUDGMENT

C.M.A. 440/2024 has been filed by the Appellants / claimants to enhance the compensation awarded by the Tribunal in M.C.O.P. No.4710 of 2018 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

2. C.M.A. 2756/2025 has been filed by the Appellant / Insurance Company questioning the negligence and quantum of compensation awarded by the Tribunal in the said MCOP.

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3. Both the matters arise out of the same accident and the same Award

and hence, disposed of by this common judgment.

4. For the sake of convenience, the parties are referred to as per their ranking in the claim petition.

5. The claimants, who are the wife, sons, daughters and mother of the deceased, have filed MCOP No.440/2024 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai, claiming a sum of Rs.1,25,00,000/-, as compensation for the death of R. Kumar.

6. According to the claimants, on 30.04.2018, at about 07.00 hours, the deceased Kumar was standing along with Thirumal Auto bearing Registration No.TN-05-F-6384 at OMR Salai, near AKDR Tower, ZIPRA Apartments. At that time, a car bearing Registration No. TN-09-BY-6837, driven by its driver in a rash and negligent manner, came from main road to service road, hit the deceased Auto, as a result of which, the deceased person sustained fatal injuries and died in hospital. Hence, the first respondent, as owner of the vehicle and, the second respondent, as insurer of the vehicle are jointly and



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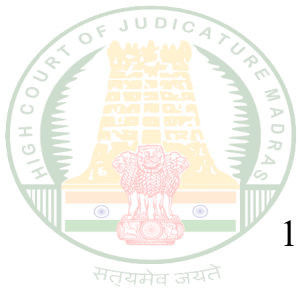
severally liable to pay compensation to the claimants with interest and costs.

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7. The claim was resisted by the 2nd Respondent / Insurance Company denying the alleged manner of accident, validity of vehicle records, driving licence of the driver and insurance coverage.

8. The Tribunal, after hearing both sides and considering the evidence available on record, concluded that the accident was occurred due to the rash and negligent driving of the driver of the 1st respondent's car and directed the 2nd respondent / Insurance Company, who is the insurer of the said vehicle, to pay a compensation of Rs.36,70,000/- to the claimants with cost and interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of realisation.

9. Seeking enhancement of compensation awarded by the Tribunal, the claimants have filed C.M.A. No.440 of 2024 and, questioning negligence as well as quantum of compensation, the 2nd respondent / Insurance Company has filed C.M.A. No.2756 of 2025.



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10. Ms. Ramya V. Rao, the learned counsel for the appellants/Claimants

in CMA No. 440/2024 argued that, the deceased was owner cum driver of two autos and was earning more than Rs.50,000/- per month by self driving and by letting it out. However, the Tribunal has fixed the monthly income of the deceased as Rs.20,000/- which is very meagre and hence, prayed for enhancement of the same.

11. *Per contra*, Mr. T. Jayaraman, the learned counsel for the appellant / Insurance Company in C.M.A.No. 2756 of 2025 submits that the compensation ought to have been assessed on the basis of cost inflation index, since the claimants were not in a position to prove the income of the deceased as per the decision of this Court in *Andal and others vs. Avinav Kannan and another* reported in (2019) (1) TN MAC 54. He would further submit that as per the judgment by the Hon'ble Division Bench of this Court in C.M.A. No.2210 and 2218 of 2021, the Tribunal ought to have fixed the notional income of the deceased at Rs.15,000/- per month in respect of the accident that took place in the year 2018. His further contention is that, since the auto rickshaw was parked in the service lane, the alleged accident took place. While so, the learned Tribunal erroneously concluded that the accident



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occurred due to the rash and negligent driving of the car driver and awarded

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exorbitant compensation to the claimants, which warrants interference by this

Court.

12. Heard on both sides. Records perused.

13. The materials on record would establish that the deceased Kumar died in a road accident on 30.04.2018. The FIR is registered against the driver of the offending car bearing Registration No.TN-09-BY-6837 and the charge sheet is also laid against the driver of the offending car. No contra evidence was produced on the side of the Insurance Company to establish that the auto was parked in the service lane. Even otherwise, if the driver of the offending car drove the vehicle with due care, the accident could have been averted. Hence, the Tribunal, based on the oral and documentary evidence, concluded that the accident was occurred due to rash and negligent driving of the driver of the offending car, warrants any interference by this Court.

13.1. Considering the facts and circumstances of this case, age of the deceased, his avocation and the plight of claimants, this Court deems it fit to

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fix the notional monthly income of the deceased at Rs.25,000/-. Since there

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are 7 dependants, 1/5 is deducted towards the personal expenses of the deceased. Considering the age of the deceased and applying the principles laid down in *National Insurance Co. vs Pranay Sethi and others* reported in 2017 (2) TNMAC 601, 25% future prospects is applicable and multiplier 14 is adopted as per the judgment reported in 2009 (2) TN MAC 1 (SC), *Sarala Varma and Others vs. Delhi Transport Corporation and Others*. Hence, the loss of dependency is calculated as under:

Calculation

Notional Income = Rs.25,000/-

25% Future prospects = Rs.31,250/-

Loss of dependency

= Rs.31,250/- x 12 x 14 - 1/5

= Rs.42,00,000/-

The Tribunal has awarded just compensation under the other heads, which warrants any interference.

14. The following tabular column would show the compensation awarded by the Tribunal and by this Court.



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S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Modification
1.	Loss of dependency	33,60,000/-	42,00,000/-	Enhanced
2.	Loss of consortium	2,80,000/-	2,80,000/-	Confirmed
3.	Loss of Estate	15,000/-	15,000/-	Confirmed
4.	Funeral Expenses	15,000/-	15,000/-	Confirmed
	Total	36,70,000/-	45,10,000/-	Enhanced by Rs.8,40,000/-

15. In the result,

i.C.M.A. No.440 of 2024 is partly allowed. C.M.A. No.2756 of 2025 is dismissed. No costs. Consequently connected miscellaneous petition is closed.

ii.The quantum of compensation awarded by the Tribunal is enhanced to Rs.45,10,000/- from Rs.36,70,000/-.

iii.The appellants in C.M.A. No.440 of 2024 are directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.

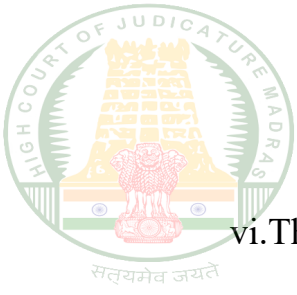


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iv. The appellant in C.M.A.No. 2756 of 2025/Insurance Company is directed to deposit a sum of Rs. 45,10,000/-(less the amount already deposited) with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this order, to the credit of M.C.O.P. No.4710 of 2018 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

v. On such deposit being made, the appellants 1 to 3 and 5 in C.M.A. No.440 of 2024 are at liberty to withdraw their share as per the apportionment made by the Tribunal, with costs and interest, after filing a proper petition for withdrawal. The share of the minor appellants 4, 6 and 7 in C.M.A. No.440 of 2024, as apportioned by the Tribunal, with costs and interests, shall be deposited in a fixed deposit in any one of the Nationalized bank until they attain majority, and the guardian of the minor appellants is permitted to withdraw the interest amount accrued thereon once in three months.



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vi. The appellants/claimants in C.M.A. No.440 of 2024 are not entitled to

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06.03.2026

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

The III Judge, Court of Small Causes,

Motor Accident Claims Tribunal, Chennai.

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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-delivery common judgment in

C.M.A.Nos.2756 of 2025 & 440 of 2024 and
C.M.P. No.23324 of 2025

06.03.2026