



C.M.A.Nos.3624 of 2025 & Cross Obj. No.3 of 2026

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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Reserved on: 22.01.2026

Pronounced on: 06.03.2026

CORAM

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

**C.M.A.Nos.3624 of 2025 & Cross Obj. No.3 of 2026 and**  
**C.M.P. No.30135 of 2025**

**C.M.A. No.3624 of 2025**

Royal Sundaram General

Insurance Co. Ltd.,

No.1. Club House Road, 2<sup>nd</sup> Floor

Subramaniam Building, Anna Salai,

Chennai 600 002.

... Appellant

vs.

1. Mangaiyarkarasi

2. Arunachalam

3. M/s. Buildscape

No.1255, 1<sup>st</sup> Floor,

Golden Colony, Mogappair,

Chennai 600 050

... Respondents

**Cross Obj. No.3 of 2026**

1. Mangaiyarkarasi

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2. Arunachalam

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C.M.A.Nos.3624 of 2025 & Cross Obj. No.3 of 2026

...Cross Objectors

Vs.

1. M/s. Buildscape

No.1255, 1<sup>st</sup> Floor,  
Golden Colony, Mogappair,  
Chennai 600 050

2. Royal Sundaram General

Insurance Co. Ltd.,  
No.1. Club House Road, 2<sup>nd</sup> Floor  
Subramaniam Building, Anna Salai,  
Chennai 600 002.

...Respondents

**Prayer in C.M.A. No.3624 of 2025:** The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act 1988, against the Award dated 12.12.2024 passed in M.C.O.P. No.4898 of 2019 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

**Prayer in Cros. Obj. No.3 of 2026:** Cross Objection is filed under Order XXXXI Rule 22 of CPC to enhance the compensation amount awarded in the judgment and decree dated 12.12.2024 passed in M.C.O.P. No.4898 of 2019 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

**C.M.A. No.3624 of 2025**

For Appellant : Mr. S. Srinivasan

For Respondents : Mr. K. Balaji for R1 & R2

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C.M.A.Nos.3624 of 2025 & Cross Obj. No.3 of 2026

R3 – No appearance

Cross Obj. No.3 of 2026

For Cross Objectors : Mr. K. Balaji  
For Respondents : Mr. S. Srinivasan for R2  
R1 – No appearance

### COMMON JUDGMENT

C.M.A. 3624/2025 has been filed by the Appellant / Insurance Company questioning the negligence and quantum of compensation awarded by the Tribunal in M.C.O.P. No.4898 of 2019 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

2. Cross Objection in Cros.Obj. No.3 of 2026 has been filed by the Appellants / claimants seeking to enhance the compensation awarded in the said Award.

3. Both the matters arise out of the same accident and the same Award and hence, disposed of by this common judgment.



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4. For the sake of convenience, the parties are referred to as per their

ranking in the claim petition.

5. The claimants have filed MCOP No.4898/2019 on the file of the Chief Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai, claiming a sum of Rs.40,00,000/- as compensation for the death of their son A. Karuppaiah.

6. According to the claimants, on 04.07.2019, at about 11.30 hours, while the victim was riding a Motorcycle bearing Registration No. TN-09-CF 6682 from south to north direction along Anna Arch Flyover, opposite to Tamil Nadu Medical Plant Farms and Herbal Medicine Corporation, a car bearing Registration No. TN-13-L-4466 coming behind on the same direction suddenly overtook the Motorcycle and applied sudden brake, as a result of which, the victim lost control and collided with the side protection wall of the bridge and fell from the over bridge and sustained multiple injuries all over body. He was taken to Rajiv Gandhi Government Hospital, Chennai, where he succumbed to injuries on 07.07.2019. The accident occurred only due to the negligent act of the driver of the car. Hence, the 2<sup>nd</sup> respondent / Insurance

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Company is liable to pay compensation to the claimants.

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7. The claim is resisted by the 2<sup>nd</sup> Respondent / Insurance Company stating that, the rider of the motorcycle came in a rash and negligent manner and collided with the rear left side of the car, lost control and fell down from the bridge and succumbed to his injuries and that the 1<sup>st</sup> respondent's car was not involved in the accident. Hence, the 2<sup>nd</sup> Respondent Insurance Company is not liable to pay compensation.

8. The Tribunal, after hearing both sides and considering the evidence available on record, concluded that the accident occurred due to the rash and negligent driving of the 1<sup>st</sup> respondent's driver to an extent of 70% and the deceased to an extent of 30% and accordingly, awarded compensation as hereunder:

Loss of Income	Rs.22,68,000/-
Loss of Estate	Rs.15,000/-
Loss of Consortium	Rs.80,000/-
Funeral Expenses	Rs.15,000/-
Transportation charges including damages to	Rs.10,000/-

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personal belongings	
Total	Rs.23,88,000/-
Less 30% towards contributory negligence	Rs.7,16,400/-
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Compensation payable	Rs.16,71,600

9. Questioning the contributory negligence fixed by the tribunal and the quantum of compensation awarded by the tribunal, the 2<sup>nd</sup> respondent / Insurance Company has filed C.M.A.No.No.3624/2025 and the Claimants have filed Cros. Obj. No.3 of 2026.

10. Mr. S.Srinivasan, the learned counsel for the appellant/Insurance Company in CMA 3624/2025 argued that the accident occurred only due to the rash and negligent driving of the deceased rider of the motorcycle who is the tortfeasor, who not only drove the motor cycle in a reckless manner but also without maintaining a proper distance while following the vehicle as mandated by the provisions of the Motor Vehicles Act, 1988 and hence the apportionment of liability to an extent of 70% on the appellant by the Tribunal is erroneous. The Tribunal ought to have apportioned some more extent on the



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deceased who is the tortfeasor. He would submit that the rider of the

motorcycle moving behind the appellant's vehicle ought to have kept a

sufficient distance and avoided collusion. His further submission is that the

petition filed by the claimants was under Section 166 of the Motor Vehicles

Act and not under Section 163-A of the Act. Therefore, the entire

responsibility is on the claimants to establish that, the appellant's vehicle

driver drove the vehicle in a rash and negligent manner which resulted in the

accident. Therefore, proof of rashness and negligence on the part of the

claimants, is therefore, *sine qua non* for maintaining an application under

Section 166 of the Act. The FIR was brought on record for the purpose of

proving the accident and not for fixing the liability on the part of driver of the

insured vehicle involved in the accident. The factum of accident could also be

proved from the First Information Report and it is also to be noted that, once a

part of the contents of the document is admitted in evidence, the party bringing

the same on record cannot be permitted to turn round and contend that the

other contents contained in the rest part thereof had not been proved. If the

contents have been proved, the question of reliance thereupon only upon a part

thereof and not upon the rest, on the technical ground that the same had not

been proved in accordance with law, would not arise. In the present case, the



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Tribunal failed to consider the documentary evidence, such as FIR and other

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police records and arrived at a wrong conclusion that the accident had occurred due to the contributory negligence in the ratio of 30:70 on the deceased and the driver of the insured vehicle, when the entire negligence was only on the deceased rider of the motorcycle. In fact, the deceased rode the motorcycle in a rash and negligent manner and dashed on the backside of the insured vehicle and then dashed on the right side wall of the bridge and fell down from 30 feet height from the bridge who courted the accident on his own negligence. The driver of the insured vehicle was not responsible for the alleged accident. Moreover, the deceased failed to maintain a proper distance while following the insured vehicle as mandated by the provisions of the Act, 1988, which is also mentioned in the FIR. It is clear from the contents of the FIR that, the accident occurred due to the rash and negligent act of the deceased. Even assuming the insured vehicle stopped suddenly, as both the vehicles were driven over the bridge, the deceased ought to have maintained safe distance from the vehicle which was going ahead. The learned Tribunal erred in relying upon the rest part of the FIR and erroneously fixed 70% contributory negligence upon the appellant. To support his contentions, he has relied upon the following judgements:

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**1. Nishan Singh & Others vs. Oriental Insurance Company Limited**

**& others reported in 2018 ACJ 1466.**

**2. Surender Kumar Arora & another vs. Dr. Manoj Bisla & others  
reported in 2012 (2) TN NAC 155 (SC)**

**3. Oriental Insurance Co. Ltd., vs. Premlatha Shukla & others  
reported in 2007 (2) TN MAC 106 (SC)**

**4. Shriram General Insurance Co. Ltd., vs. S. Padmini reported in  
2014 2 TNMAC 521.**

**5. Managing Director, Tamil Nadu State Transport Corporation  
Limited vs. K.Palani reported in 2019 ACJ 1386**

He further submitted that the income considered by the Tribunal is highly excessive without any documentary proof. Hence, prayed to allow the Civil Miscellaneous Appeal.

11. *Per contra*, Mr.K. Balaji, the learned counsel for the Cross Objectors in Cros.Obj No.3 of 2026 argued that the Award passed by the Tribunal is contrary to law, not supported by the weight of evidence, and against the probabilities of the case. It is contended that the Tribunal erred in holding that the deceased has contributed to the accident to an extent of 30%

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despite the fact that the accident was caused solely due to the rash and

negligent driving of the driver of the 1<sup>st</sup> respondent's car. The mere failure to avoid the collision by taking some extraordinary precaution does not in itself constitute negligence. There was nothing on record to indicate that the deceased was not riding the motorcycle at moderate speed nor that he did not follow traffic rules. Hence, the Tribunal erred in fixing 30% contributory negligence on the part of the deceased. He would further submit that, it is well settled that in Motor Accident Claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of the offending vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. While deciding cases arising out of Motor Vehicle Accident, the standard of proof must be borne in mind must be of preponderance of probabilities and not the strict standard of proof beyond all reasonable doubt which is followed in Criminal Cases. The Tribunal ought not to have fixed 30% toward contributory negligence in the absence of evidence let in by the Insurance Company that the accident occurred due to the contributory negligence of the deceased. Therefore, Motor Accident case, being summary

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proceedings in nature, strict principles of law as per Evidence Act, may not be

invoked and the learned Tribunal ought to have taken judicial notice of facts

placed. He would submit that though the deceased was a Store Assistant in

Hotel Quality Inn Sabari, earning Rs.25,000/- per month, the Tribunal fixed

the income of the deceased only as Rs.15,000/- per month, which is very low.

He further submitted that the Tribunal failed to award compensation in

adequate measures as per the various decisions of Hon'ble Apex Court as well

as by this Hon'ble Court. To support his contentions he has relied upon the

following judgments:

***1. Anita Sharma and others vs. New India Assurance Co. Ltd., and another reported in 2021 (1) TN MAC 321 (SC)***

***2. K. Anusha and others vs. Regional Manager, Shriram General Insurance Company Ltd., reported in 2022 (1) TN MAC 152 (SC).***

***3. Seema & others vs. United India Insurance Company Limited and others reported in 2022 LiveLaw (SC) 1016.***

***4. Order of the Hon'ble Supreme Court dated 06.12.2021 in Civil Appeal Nos.7435-7436 of 2021 (Basanti Devi and another vs. Divisional Manager, The New India Assurance company Limited and others)***



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12. Heard the submissions made by the counsel for the respective parties and perused the materials on record.

13. The Motor Accident Claims Tribunal, relying on the evidence of P.W.2 and a part of the content of the FIR, came to the conclusion that, the insured vehicle contributed to the alleged accident to the extent of 70%. The eye witness examined as P.W.2 has clearly deposed that, the driver of the offending car drove the vehicle in a rash and negligent manner and applied sudden brake, which resulted in the accident. At the same time, the learned Tribunal held that, if the deceased, rider of the motorcycle, who followed the car on the bridge had kept the safe distance from the vehicle in front, the accident could have been avoided and fixed 30% contributory negligence on the part of the deceased rider. Considering all these factors, this Court is of the view that, if the driver of the offending vehicle and the deceased had driven the motorcycle with due care and caution, the accident could have been averted. As rightly pointed out by the learned counsel for the Insurance Company, the deceased ought to have maintained safe distance from the insured vehicle, which was going ahead. Accordingly, the Tribunal has rightly fixed 70% negligence on the part of the insured vehicle and 30% negligence

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on the deceased, warrants any interference by this Court.

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14. According to the claimants, the deceased at the time of accident, was a Store Assistant at Hotel Quality Inn Sabari and was earning a sum of Rs.25,000/- per month. However, the claimants have not produced any proof of income, except, Ex.P6 appointment letter. Hence, the Tribunal has fixed the notional income of the deceased at Rs.15,000/- per month. Considering the facts and circumstances of this case, age of the deceased and the plight of the claimants, this Court deems it fit to fix the notional income of the deceased at Rs.20,000/-. Since there are 2 dependants, 1/2 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*, 40% future prospects is applicable and multiplier 18 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.20,000/-

40% Future prospects = Rs.28,000/-

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Loss of dependency

= Rs.28,000/- x 12 x 18 - 1/2

= Rs.30,24,000/-

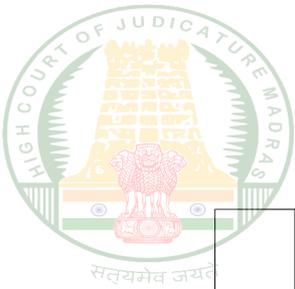
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The Tribunal has awarded just compensation under the other heads, which warrants any interference.

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

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Modification
1.	Loss of dependency	22,68,000/-	30,24,000/-	<b>Enhanced</b>
2.	Loss of Estate	15,000/-	15,000/-	Confirmed
3.	Loss of consortium	80,000/- (40000x2)	80,000/-	Confirmed
4.	Funeral Expenses	15,000/-	15,000/-	Confirmed
5.	Transportation charges including damages to personal belongings	10,000/-	10,000/-	Confirmed
	Total	23,88,000/-	31,44,000/-	

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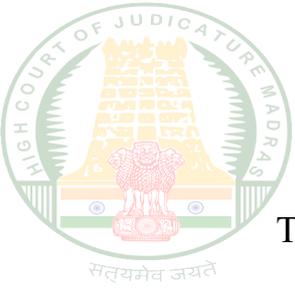
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After deducting 30% contributory negligence	16,71,600/-	22,00,800/-	Enhanced by Rs.5,29,200
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16. In the result,

- i. C.M.A. No.3624 of 2025 is dismissed. Cross Obj. No.3 of 2026 is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.
- ii. The quantum of compensation awarded by the Tribunal is enhanced to Rs.22,00,800/- from Rs.16,71,600/-.
- iii. The Cross Objectors in Cros.Obj. No.3 of 2026 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.
- iv. The Appellant in C.M.A. No.3624 of 2025 / Insurance Company is directed to deposit a sum of Rs. 22,00,800/-(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.4898 of 2019 on the file of the Motor Accident Claims



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Tribunal, Chief Judge, Court of Small Causes, Chennai.

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v. On such deposit being made, the appellants 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.

06.03.2026

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

1. The Chief Judge,  
Motor Accident Claims Tribunal,  
Court of Small Causes, Chennai.
2. The Section Officer,  
VR Section,  
High Court, Madras.

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**K.GOVINDARAJAN THILAKAVADI, J.**

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**Pre-delivery common judgment in**

**C.M.A.Nos.3624 of 2025 & Cross Obj. No.3 of 2026**  
**and**  
**C.M.P. No.30135 of 2025**

**06.03.2026**

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