



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 406 of 2023

AND

CMP No. 3428 of 2023

The National Insurance Company Ltd.,
Puducherry.

..Appellant(s)

Vs

1. Saraswathi, W/o.Kailasam,
Residing at Lakkinaiickenpatti M, Puliyanakottai
Via, Sankarapuram Taluk, Villupuram District.

Kailasam (Died)

2. Revathi
W/o.Pandurangan, Perumal Kovil Street,
Thalaivasal Post, Attur Taluk, Salem District

3. Minor Pavya,
Minor rep by her Mother/Natural
Guardian/Next Friend Revathi,
D/o.Pandurangan, Perumal Kovil Street,
Thalaivasal Post, Attur Taluk, Salem District.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Accident Claims Tribunal, seeking to set aside the Judgment that has been passed in this matter by the Motor Accident Claims Tribunal (III Additional District Judge) Villupuram, at Kallakurichi in MCOP NO.104/2015 dated 27-10-2021.



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For Appellant(s): Mrs.R.Sree Vidhya
For Respondent(s): M/s.R.Nalliyappan For R1
R2 - Left
R3 - Minor Rep By R2

JUDGMENT

This appeal has been filed by the Insurance Company against the award passed by the Motor Accident Claims Tribunal, III Additional District Judge, Kallakurichi in M.C.O.P.No.104 of 2015, dated 27.10.2021.

2. The claimants are the parents of the deceased Pandurangan. The second respondent is the wife and the third respondent is the minor child of the said Pandurangan. The case of the claimants is that on 12.05.2011, the deceased was riding a two-wheeler at Chinnasalem – Kallakurichi Main Road, and at about 6.00 p.m., one of the pedestrian crossed the road negligently and the deceased attempted to stop the vehicle, and lost control, and he fell down, and sustained head injuries, and as a result of which he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed under section 163(A) of the Motor vehicles Act, before the Tribunal.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that



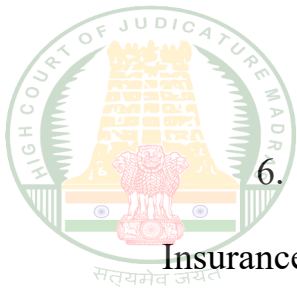
the accident had taken place only due to the negligence on the part of the deceased. The Tribunal also took into consideration the insurance policy which was marked as Ex.P5 which shows that the premium had been paid for owner-cum-driver of the vehicle. In view of the same, the Tribunal fixed the total compensation at Rs.2,80,000/- under the following heads:

<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.1,00,000/-
2.	Loss of Consortium	Rs.40,000/-
3.	Funeral Expenses	Rs.25,000/-
4.	Loss of Love and Affection to the petitioners	Rs.1,00,000/-
5.	Loss of Estate	Rs.15,000/-
	Total	Rs.2,80,000/-

The above compensation amount was directed to be paid along with interest at the rate of 7.5% per annum. Aggrieved by the same, the present appeal has been filed by the Insurance Company.

4. This Court heard Mrs.R.Sree Vidhya, learned counsel appearing on behalf of the appellant – Insurance Company and M/s.R.Nalliyappan, learned counsel appearing on behalf of the first respondent.

5. This Court carefully considered the submissions made by the learned counsel for the appellant and the materials available on record. This Court also carefully went through the award passed by the Tribunal.



6. The main ground that was urged on the side of the appellant - Insurance Company is that the claim petition filed under section 163(A) of the Motor Vehicles Act is unsustainable since the tortfeasor in this case is the deceased. The learned counsel further submitted that even if compensation is payable under the PA cover, the Motor Accident Claims Tribunal is not the appropriate forum to direct such payment, and the liability is in the nature of a contractual liability which cannot be enforced by the Tribunal.

7. Per contra, the learned counsel appearing on behalf of the claimants submitted that the deceased has left behind his wife, a minor daughter and aged parents and a very meagre amount has been fixed by the Tribunal, which does not require the interference by this Court.

8. In the considered view of this Court, the very application filed under Section 163 (A) of the Motor Vehicles Act is not sustainable. The deceased, who was found to be a tortfeasor in this case, cannot be held to be a third party to make any claim. Hence, at the best, whatever is the amount under the PA cover, and to the extent the same is not denied by the Insurance Company, will become payable and nothing more.

9. The Tribunal has fixed total compensation at Rs.2,80,000/- and directed the same to be paid with interest at the rate of 7.5% per annum. The



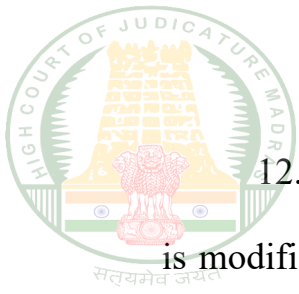
maximum that is payable under the PA cover is only Rs.1,00,000/-. Therefore, at the best, total liability has to be limited to Rs.1,00,000/-.

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10. Even though, the contractual liability on the part of the Insurance Company is not enforceable before the Tribunal, the fact remains that the Insurance Company is liable to make payment under the PA cover. Therefore, it is not necessary for the claimants to undergo another round of litigation to get compensation under the PA cover.

10. The learned counsel for the appellant submitted that no interest is payable by the Insurance Company and at the best, only a sum of Rs.1,00,000/- is payable to the claimants.

11. In the considered view of this Court, the liability of the Insurance Company is fixed at Rs.1,00,000/- as per the PA cover. This liability starts running from the date the claim is made. Hence, considering the fact that the deceased has left behind his wife, minor child, and aged parents, this Court is inclined to direct the Insurance Company to pay interest at the rate of 7.5% per annum on Rs.1,00,000/- from the date of filing of petition till the date of actual payment.



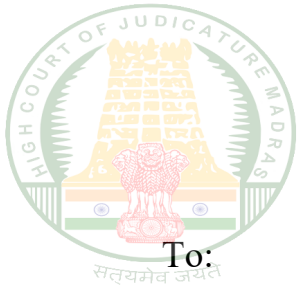
12. In the light of the above discussion, the award passed by the Tribunal is modified and there shall be a direction to the Insurance Company to deposit the compensation of Rs.1,00,000/- before the Tribunal in M.C.O.P.No.104 of 2015, along with interest at the rate of 7.5% per annum, within a period of four (4) weeks from the date of filing of petition till the date of deposit. On such deposit, the claimants are entitled to withdraw the compensation amount along with accrued interest on due application. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

13. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition stands closed.

14-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To:

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1. The III Additional District Judge,
Motor Accident Claims Tribunal,
Villupuram at Kallakurichi.

2. The Section Officer,
V.R.Section,
High Court of Madras.



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N.ANAND VENKATESH J.

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