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CMA No. 1336 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2026

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THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 1336 of 2024

AND

CMP NO. 12052 OF 2024

New India Assurance Co.Ltd
3rd Floor, Jawaharlal Nehru Street, Pondicherry -
605 001.

..Appellant(s)

Vs

1. Devaraj
S/o.Kannan
2. Lakshmi
W/o.Devaraj
3. Dhatchayani
D/o.Devaraj
4. Sasikumar
S/o.Subramani

..Respondent(s)

CMA No. 1336 of 2024

To set aside the Judgement and Decree dated 30 th day of March 2022 made in MCOP No.257 of 2019 on the file of the MACT (Special District Judge) at Villupuram.

CMA No. 1336 of 2024

For Appellant(s): M/s.C. Ramesh Babu
A. Salomi
S. Pavithra

For Respondent(s): R1& R4 served – No appearance



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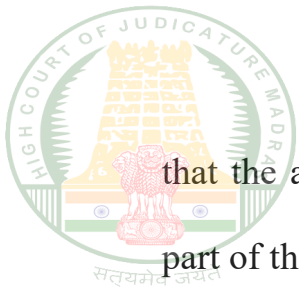
R2 and R3 Unclaimed

Judgment

This appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal (Special District Judge), Villupuram in MCOP No. 257 of 2019 dated 30.03.2022.

2. The respondents are the claimants. The first and second respondents are the parents of the deceased, the third respondent is the sister of the deceased. The case of the respondents is that on 18.04.2019, at about 4.10 p.m., the deceased was travelling as a pillion rider on the fourth respondent's two-wheeler. The fourth respondent drove the two wheeler in a rash and negligent manner and due to over speeding, he lost his control and dashed against the pedestrian, as a result of which, the deceased was thrown out of the vehicle and subsequently, the deceased sustained grievous injuries and succumbed to the injuries on the spot. An FIR came to be registered in Crime No. 222 of 2019. It is under these circumstances, the claim petition came to be filed 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 due to the rash and negligent driving on the part of the fourth respondent.

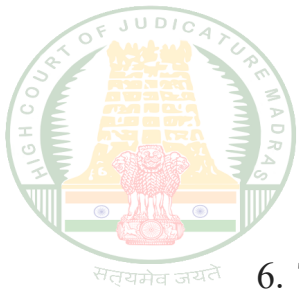
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4. Having rendered the above finding, the Tribunal proceeded to determine the compensation amount in the following manner:

<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of Dependency	Rs. 9,07,200/-
2.	Filial Consortium to 1 st and 2 nd respondent, parents of the deceased	Rs. 88,000/-
3.	Consortium to 3rd respondent, sister of the deceased	Rs. 44,000/-
4.	Funeral Expenses	Rs. 16,500/-
5.	Loss of Estate	Rs. 16,500/-
	Total	Rs. 10,72,200/-

The above compensation amount of Rs. 10,72,200/- was directed to be paid along with interest at the rate of 7.5% per annum from the date of the petition. However considering the fact that the fourth respondent did not possess a valid driving license, pay and recover was ordered.

5. The Insurance Company has filed the present appeal mainly on the ground that the fourth respondent did not possess a valid driving license and therefore, pay and recover ought not to have been ordered.



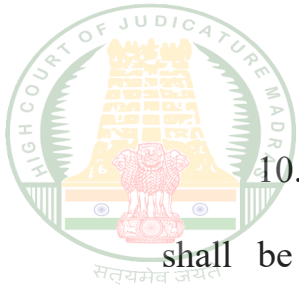
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6. This Court carefully considered the submissions made by the learned counsel appearing for the appellant and also the award passed by the Tribunal.

7. The ground that was taken by the learned counsel appearing for the appellant is to the effect that the Tribunal ought not to have ordered for pay and recover. It is seen that the accident had happened after the amendment and the policy issued is before the amendment. The said ground is squarely covered by the judgment of the Apex Court in *National Insurance Co. Ltd V. Swaran Singh and others reported in (2004) 3 SCC 297*. Hence, this Court does not find any illegality in the order passed by the Tribunal applying the principle of pay and recover.

8. Insofar as the quantum of compensation is concerned, this Court finds that the Tribunal has granted a just and reasonable compensation and it does not require the interference of this Court.

9. It is brought to the notice of this Court by the learned counsel appearing for the Insurance Company that 50% of the award amount along with accrued interest has already been deposited before the Tribunal.



10. In the result, this Civil Miscellaneous Appeal stands dismissed. There shall be a direction to the appellant/Insurance Company to deposit the remaining 50% of the disputed liability along with interest to the credit of M.C.O.P No. 257 of 2019 on the file of the Motor Accident Claims Tribunal (Special District Judge), Villupuram, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants will be entitled to withdraw the remaining compensation in the proportion as fixed by the Tribunal. No costs.

01-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RKA

To

The Motor Accident Claims Tribunal (Special District Judge), Villupuram



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N.ANAND VENKATESH J.

RKA

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