



WEB COPY

CMA No. 3697 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 3697 of 2025

1. K.S.Latha
W/o. Anandhan (Deceased),
A.Abijith(Died)

2. K.Ramya
D/o. Late Anandhan

..Appellant(s)

Vs

1. M.Pichaipandi
S/o. Mani

2. TATA AIG General Insurance Company Ltd,
Jaya Enclave, Avinashi Road,
Coimbatore-641018

..Respondent(s)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to fix the liability of the Respondents jointly and severally and to direct the 2nd respondent Insurance Company to pay the entire compensation, by enhancing the award amount made in MCOP.No.242 of 2020 on the file of the MACT/IV Additional District Court at Coimbatore dated 19.06.2024 along with 12 percent interest and cost by allowing this Civil Miscellaneous Appeal.

For Appellant(s): Mr.Ma.P.Thangavel for
Mr.M.Lokesh

For Respondent(s): Mr.K.Vinod for R2



Judgment

WEB COPY

This Civil Miscellaneous Appeal has been filed against the award passed in MCOP No.242 of 2020 by the Motor Accident Claims Tribunal /IV Additional District Court, Coimbatore dated 19.06.2024 wherein the claimants have questioned the exoneration of the 2nd respondent insurance company from the liability.

2. The 1st claimant is the wife and the 2nd and 3rd claimants are the children of the deceased Anandan. The case of the claimants is that on 29.10.2019, the deceased was walking on Coimbatore Pothanur Chettipalayam Road and at about 8.45 a.m, the offending vehicle, which was a two wheeler, was driven in a rash and negligent manner and dashed against the deceased. As a result of which, the deceased sustained fatal injuries and succumbed to the same. An FIR came to be registered in Crime No.307 of 2019 against the rider of the offending vehicle. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3. The 2nd respondent insurance company filed a counter by taking a stand that the 1st respondent, who is the owner cum driver did not possess a valid driving license and hence, they are not liable to pay the compensation, since there was a violation of the policy conditions.



4. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the two wheeler.

5. The Tribunal took into consideration the defence taken by the insurance company and exonerated the insurance company from liability and the entire liability was fixed on the 1st respondent.

6. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.16,98,864/- 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.15,48,864/-
2.	Funeral expenses	Rs.15,000/-
3.	Loss of estate	Rs.15,000/-
4.	Loss of consortium	Rs.1,20,000/-
	Total	Rs.16,98,864/-



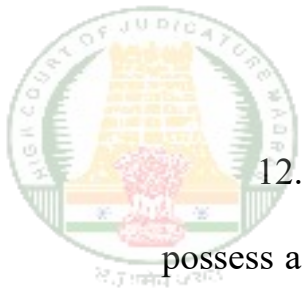
7. The above compensation was directed to be paid with interest at the rate of 7.5% per annum. Aggrieved by the same, the claimants have filed this appeal.

8. Heard Mr.Ma.Pa.Thangavel, learned counsel for appellant and Mr.Vinod, learned counsel for the 2nd respondent. The 1st respondent has been served with notice and the name of the 1st respondent has also been printed in the cause-list. However, there is no appearance either in person or through counsel.

9. This Court carefully considered the submissions made on the side of the appellant and the materials available on record.

10. This Court also carefully went through the award passed by the Tribunal.

11. In the case in hand, the accident had taken place on 29.10.2019 before coming into force of the amendment Act introduced in the year 2022. Thus, it was covered by the judgement of the Apex Court in the case of *National Insurance Co. Ltd Vs. Swaran Singh & others [reported in (2004) 3 SCC 297]*.



12. In view of the above, even if the rider of the two wheeler did not possess a valid driving license, the Tribunal ought to have applied the principle of pay and recover. In view of the same, the finding of the Tribunal exonerating the insurance company from liability is set-aside and this Court is inclined to invoke the principle of pay and recover whereby the insurance company shall pay the compensation amount and recover the same from the 1st respondent.

13. Insofar as the compensation is concerned, the deceased was aged about 53 years and left behind his wife and two children. The accident had taken place in the year 2019. Even as per the claim petition, the claimants have stated that the deceased was earning a sum of Rs.15,000/- per month. However, the Tribunal proceeded to fix the Notional monthly income at Rs.22,000/- which is clearly on the higher side. This Court is inclined to fix the notional monthly income as was claimed by the claimants at Rs.15,000/- per month. 10% can be added towards future prospects. The Tribunal erroneously applied multiplier instead of 11 multiplier. The same is modified. Consequently, the loss of income / dependency is calculated as follows :-

$$\begin{aligned} \text{Loss of dependency} &= \text{Rs.15,000} + \text{Rs.1500} \times 12 \times 11 \times 2/3 \\ &= \text{Rs.14,52,000/-} \end{aligned}$$

14. The compensation that has been fixed under the other heads are just and reasonable and it does not require the interference of this Court.



15. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of dependency	Rs.15,48,864/-	Rs.14,52,000/-
2.	Funeral expenses	Rs.15,000/-	Rs.15,000/-
3.	Loss of estate	Rs.15,000/-	Rs.15,000/-
4.	Loss of consortium	Rs.1,20,000/-	Rs.1,20,000/-
	Total	Rs.16,98,864/-	Rs.16,02,000/-

16. The compensation awarded by the Tribunal is reduced from Rs.16,98,864/- to Rs.16,02,000/-. The 2nd respondent Insurance company is directed to deposit the compensation amount, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. On such deposit, the claimants are entitled to withdraw the compensation amount. The other directions issued by the Tribunal with regard



to the mode of payment of compensation remains unaltered. The guidelines issued by the Division Bench of this Court in C.M.A.No.4736 of 2026, dated 06.07.2026 shall be strictly complied with respect to disbursement of the compensation amount to the claimant.

17. In the result, this Civil Miscellaneous Petition is disposed of. No costs.

06-08-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RKA

To

1. The MACT/IV Additional District Court at Coimbatore

2. The Section Officer, VR Section, High Court Madras.



WEB COPY

CMA No. 3697 of 2



N.ANAND VENKATESH J.

RKA

CMA No. 3697 of 2025

06-08-2026