IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2025

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.1985 of 2020
& C.M.P.No.14649 of 2020

United India Insurance Company Ltd.,
Branch Office-III,
137-D, Cherry Road, Salem – 1. ... Appellant

/versus/

C.Rajendran (Died)
1. Bhavani.

2. M/s.Lakshmi Distributors,
55-G, 46-A, Rajaram Nagar,
Tamilsangam Road, Salem.

3. R.Karthikeyan, ... Respondents

(Since C.Rajendran died pending claim, wife of deceased C.Rajendran impleaded as claimant and son as 3rd respondent vide order date 15.07.2016 made in I.A.No.987 of 16)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 17.09.2019 made in M.C.O.P.No.202 of 2012 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.2), Salem.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.S.P.Yuvaraj, for R1,
: No appearance, for R2
: Left, for R3

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J U D G M E N T

Rajendran, who was working as a Forest Ranger, sustained injuries in a road accident on 23.06.2011 near Ambedkar Statute Cheri Road, Salem. His two-wheeler was hit by a TATA Ace container bearing Reg.No.TN-30-AH-0742. Rajendran was admitted in the hospital for treatment. Having sustained severe head injury, he could not recover and died on 14.01.2013. Even before his death, he had filed claim petition seeking compensation of Rs.25,00,000/- for the injury sustained and for the medical expenses. It is to be noted that even at the time of filing the claim petition, he was not in position to sign, therefore the claim petition filed by his wife as his representative next friend and guardian.

2. The claim was contested by the Insurance Company on the ground that it is a hit and run case. The insurer contended that the victim had contributed by not wearing the helmet. Further, there is no post mortem certificate to indicate that the victim died only due to the head injury which he sustained in the accident occurred nearly 18 months prior to his death.

3. The specific stand of the Insurance Company was that there is no proximity between the accident and the death. It was further contended that the victim sustained injuries due to his own fault of not wearing the helmet and the claim of Rs.25 lakhs as compensation is exorbitant.

4. The Tribunal, after considering the evidence led by the claimants and the opinion of the Doctor examined as P.W.3, based on the pay certificate, fixed the annual income of the deceased as Rs.4,67,415/-. Thereafter, deducting 1/3rd towards personal expenditure and adding 15% towards future prospects, the tribunal fixed a sum of Rs.51,41,565/- for the loss of monetary benefit to the dependants. Granting additional compensation on other heads including the medical expenditures, the total award was Rs.67,40,454/-, with interest at 7.5% per annum.

5. In the appeal, the Insurance Company had contended that the Tribunal had failed to take note of the fact that at the time of filing the claim petition the victim himself has declared his monthly income as only Rs.30,000/-

whereas, the Tribunal, relying upon the pay certificate had fixed the monthly income of the victim as Rs.50,000/- without any basis. That apart, the Tribunal ought to have considered that there is no proximity between the accident and the death. Taking into consideration, the accident occurred on 23.06.2011. whereas, the victim died on 14.01.2013. The evidence of P.W.3 was not sufficient to show that the death was due to the accident injury and moreso, in the absence of post-mortem certificate, there cannot be a correlation between the accident and the death.

6. Further, the Learned Counsel for the appellant submitted that the Tribunal ought not to have awarded 15% towards future prospects, since the deceased had only 4 years of service and his wife was entitled to get the family pension.

7. Further, the Learned Counsel appearing for the Insurance Company submitted that, in any event, the Tribunal miserably failed to deduct income tax since the annual income as computed by the Tribunal had exceeded the taxable limit.

8. The Learned Counsel appearing for the Insurance Company also contended that the Tribunal had awarded Rs.1,64,165.97 over and above the actual medical bills produced by the claimant.

9. The Learned Counsel appearing for the claimants submitted that at the time of death the victim, Rajendran was 53 years old. He was severally injured and was crippled. He was continuously taking medical treatment for nearly 1½ years. However, he could not survive. There is direct proximity between the accident and the death that could be palpably seen from the fact that the claim petition was filed on his behalf by his wife on 06.02.2012 and one year after filing the claim petition, Rajendran died. The Tribunal, on considering the material produced by the claimants including the pay certificate marked as Ex.P10 had arrived at the compensation for loss of monetary benefit to dependants at Rs.51,41,565/-.

10. The Learned Counsel for the claimant/respondent further contended that the pay certificate is more authentic document insofar as Government servant is concerned. To fortify and substantiate, he has also filed an application to receive additional documents, namely the pension papers, which could reflect the same amount as basic pay, Dearness Allowance (DA) and other allowances paid to the deceased.

11. Regarding non-deduction of income tax, the Learned Counsel for the respondent fairly conceded that, since the earning of the deceased fall on the taxable slab, appropriate income tax deductions be made.

12. On considering the rival submissions, the point involved in this appeal is whether the pay certificate produced by the claimant can be taking into consideration for computing the loss of monetary benefit. It is admitted by the respondents that at the time of accident, Rajendran was serving as Forest Ranger. The pay certificate furnished and marked as Ex.P10 indicates that his last pay drawn was Rs.50,806/- with net salary of Rs.46,701/-.

13. One of the contentions raised by the Learned Counsel for the Insurance Company is that this pay certificate is subsequent to the revision of pay under the Pay Commission report. The actual pay drawn by the injured, Rajendran, was far less. Having awarded 15% towards future prospects, the Tribunal ought not to have considered the revised pay scale or ought not to have awarded any additional amount for future prospects and if intended to consider the revised pay scale.

14. This Court is of the view that such a submission is untenable and cannot be countenanced. A Government servant earning is decided based on his last pay drawn. Ex.P10 is the certificate indicating the last pay drawn for the month of January 2013, the month on which the said Rajendran died. Therefore, the Court does not find any error in taking into consideration the pay certificate Ex.P10 for computing loss of earnings and also finds no error in adding 15% towards future prospects.

15. Having had seven years of his service and after considering the other grounds, we find that the only error committed by the Tribunal is not deducting the income tax while computing the loss of monetary benefit. Therefore, the annual income of the deceased, before deducting 1/3rd towards the personal expenditure, is computed as Rs.7,01,123/- and towards income tax a sum of Rs.74,000/- to be deducted (10% for the income above Rs.1,62,000/- upto Rs.5 lakhs + 20% for the income Rs.5 lakhs to Rs.7 lakhs). After deducting Rs.74,000/- from Rs.7 lakhs and 1/3rd towards the personal expenditure, the loss of monetary benefit will be Rs.4,18,082 x 11 = 45,98,902/-. Insofar as compensation awarded under other heads need to be confirmed.

Sl.Nos.	Description	Amount (Rs.)
1.	Annual income before deductions : Rs.7,01,123/- Less: Income tax deduction : (-74,000) Sub-total after tax Less: 6,27,123/- One-third personal expenditure (-2,09,041) Loss of monetary benefit = 4,18,082 Multiplied by 11 years = 4,18,082 x 11 = **Rs.45,98,902/-**	**Rs.45,98,902/-**
2.	Medical Expenses	Rs.14,04,889/-
3.	Transportation Charges	Rs.1,00,000/-
4.	Attendant charges (Rs.300 x 80)	Rs.24,000/-
5.	Loss of estate	Rs.15,000/-
6.	Loss of consortium	Rs.40,000/-
7.	Funeral Expenses	Rs.15,000/-
	Total	**Rs.61,97,791/-**
	Round off	**Rs.62,00,000/-**

16. Accordingly, the award of the Tribunal is modified from Rs.67,40,454/- to Rs.62,00,000/-, along with interest at the rate of 7.5% p.a., from the date of filing the claim petition till the date of realization. The 1st respondent/claimant is entitled to get Rs.50,00,000/- and 3rd respondent/claimant is entitled to get Rs.12,00,000/-. The claimants are permitted to withdraw their respective share amount as mentioned above on filing appropriate application before the trial Court, less the amount already withdrawn by them, if any. The said amount shall be deposited within a period of two months, from the date of receipt of copy of this order.

17. Accordingly, this Civil Miscellaneous Appeal is partly-allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[Dr.G.J., J.] & [M.S.K., J.]
22.10.2025

Index :Yes/No.
Internet :Yes/No.
bsm

To,
1. The Motor Accidents Claims Tribunal (Special Sub Court No.2), Salem.

Dr.G.JAYACHANDRAN., J.
and
MUMMINENI SUDHEER KUMAR., J.

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