



C.M.A.No.1281 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1281 of 2022
and C.M.P.No.9279 of 2022

The Divisional Manager,
United India Insurance Co. Ltd.,
Motor Third Party Claims Cell,
No.147/58-C, Kamarajar Street,
Kanchipuram
Now at Motor Third Party Service Hub,
A.R.Plaza, No.35, 36 & 37,
45 Feet Road Extension,
Balaji Nagar, Puducherry – 605 001.

...Appellant

Vs.

1.E.Ponnusamy
2.Anjammal
(2nd Petitioner exonerated as per order in
I.A.No.1/2019 dated 21.08.2019 and amended
as per order in I.A.No.2/2019 dated 29.08.2019)
3.Balasundaram

...Respondents



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Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the Order and Decreetal Order dated 14.02.2020 in M.C.O.P.No.69 of 2016 passed by the District & Session Judge, Additional District Court, (FTC), Kanchipuram.

For Appellant : Mr.P.Sankaranarayanan
For Respondents : Mr.Ma.P.Thangavel
for Mr.N.Lokesh for R1
R2 – Batta due
R3 – Died

J U D G M E N T

This appeal is filed by the appellant challenging the award dated 14.02.2020 made in M.C.O.P.No.69 of 2016 on the file of the Motor Vehicle Accidents Claims Tribunal, Kanchipuram (Additional District Court, (FTC), Kanchipuram)

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioners are the claimants, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.

4.The brief facts of the case are as follows:



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According to the petitioners, on 27.04.2000 at about 1.30 p.m., when Asaithambi was doing repair work on the backside of the trailer lorry bearing Registration No.TMW 834 at that time, the lorry driver all of a sudden, without any signal in a rash and negligent manner, started and reversed the lorry and backside tyre of the lorry ran over the said Asaithambi and thereby, he sustained fatal injuries and died on the spot. The petitioners filed a claim petition before the Tribunal in M.C.O.P.No.69 of 2016, the Tribunal awarded a sum of Rs.14,30,800/- as compensation. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that the accident occurred in the year 2000 and the claim petition was filed before the Tribunal in the year 2015 i.e., on 14.12.2015 which is after 15 years. The learned Tribunal failed to take note of the fact that the mother of the deceased, viz., Anjammal had expired even in the year 2001 and the same had been admitted by the father of the deceased, viz., Ponnusamy during his cross-examination as PW1. The father of the deceased also got married and he is also not the dependent of the deceased. Therefore, the



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claim made by the claimants as such is not sustainable. He further submitted that the compensation awarded by the Tribunal is highly excessive, which is not sustainable. Accordingly, he prayed for appropriate orders.

6.Per contra, learned counsel appearing for the first respondent submitted that immediately after the accident, they filed a claim petition in M.C.O.P.No.195 of 2001 before the Motor Accident Claims Tribunal, Cheyyar on 26.04.2001 and the same was dismissed for default on 01.03.2004 but later it was restored. He further submitted that there is no suppression of fact and in fact at the time of filing the claim petition, Anjammal was alive and the appeal preferred by the appellant Insurance Company is not sustainable and accordingly, he prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellant, learned counsel appearing for the first respondent and perused the materials available on record.



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8.Before the Tribunal, the first petitioner was examined as PW1 and one Duraikannu was examined as PW2 and on the side of the petitioners and 4 documents were marked as Exs.P1 to P4. On the side of the respondent, no witness was examined and no document was marked. The Court marked the photograph affixed in the petition as Ex.C1.

9.On perusal of records, it is seen that the accident occurred in the year 2000. Earlier, the claim petition was filed by the claimants in the year 2001 and the same was dismissed for default in the year 2004. According to the Insurance Company, the mother of the deceased also died in the year 2001. Thereafter, the claim petition was filed again after 15 years including the name of the mother as a claimant, who had already died and that the objection raised by the learned Counsel for the Insurance Company is sustainable.



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10. Therefore, this Court is of the view that the father is the only surviving claimant and he is entitled to withdraw Rs.3,00,000/- with interest 7.5%. Since the award amount was already deposited by the Insurance Company, the first claimant is permitted to withdraw Rs.3,00,000/-, with interest at 7.5% p.a. after deducting the amount already withdrawn, from the date of the claim petition till the date of deposit within a period of 6 weeks from the date of receipt of this judgment.

11. In the result, the Civil Miscellaneous Appeal is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

26.08.2025

Index: Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

1. The Motor Accident Claims Tribunal,
Additional District Court, (FTC),



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2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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T.V.THAMILSELVI, J.

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