IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE

CMA.NO.623 OF 2022

M/s. TATA AIG General Insurance
Company Limited,
15th Floor, Tower – A,
Peninsula Business Park,
Ganapatrao Kadan Marg,
Lower Parel, Mumbai – 400 013.

... Appellant /
4th Respondent

Vs.

1. M.Sumathi, Wife of Late.Mani,
2. Minor. Naveen, Son of Late. Mani
3. Minor. M.Avinesh, Son of Late. Mani
   Minors are represented by their
   next friend and guardian mother M.Sumathi,
   All of them are residing at
   No.81, Thayappar Street,
   Natrampalli Post and Taluk,
   Vellore District.

... Respondents 1 to 3 /
Petitioners 1 to 3

4. M/s. Varuna Integrated Logistics Pvt. Limited,
   Khijuri Village, Delhi- Jaipur NH – 8 Road,
   Rewari District, Haryana.

... 4th Respondent /
1st Respondent

5. R.Ganapathi, Son of Rathinam,
Residing at No.760,
TNHB Quarters Phase -2,
S-Pallipattu Post, Tirupattur Talik,
Vellore District.

... 5th Respondent /
2nd Respondent

6. Branch Office,
M/s. The New India Assurance Company Limited,
No.105, Railway Station Road,
Tirupattur Post, Vellore District.

... 6th Respondent /
3rd Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Award dated 16.07.2021 made in M.C.O.P.No.437 of 2017 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

For Appellant	:	M/s. J.Michael Visuvasam
For R1 to R3	:	Mr.J.Pradeep
For R6	:	Mr.S.R.Sundar
For R4 & R5	:	No appearance

JUDGMENT

(Judgment of the Court was delivered by Dr.A.D.MARIA CLETE, J.)

This Civil Miscellaneous Appeal is filed by the appellant, TATA AIG General Insurance Company Ltd., challenging the award dated 16.07.2021, passed by the Motor Accidents Claims Tribunal, Krishnagiri in MCOP

No. 437 of 2017, wherein a compensation of Rs.38,49,072/- was awarded to the claimants—wife and minor children of the deceased R. Mani—for his death in a motor vehicle accident on 27.11.2015.

2. The deceased R. Mani, while riding his Hero Honda Splendor (Reg. No. TN-23-AY-1208) on 27.11.2015, was allegedly hit by an Ashok Leyland Lorry (Reg. No. NL-02-N-3842), owned by Varuna Integrated Logistics Pvt. Ltd., insured with TATA AIG General Insurance Company Ltd. The accident took place on the Chennai-Krishnagiri NH Bypass Road at Vellaikuttai Village, and resulted in the instant death of the deceased due to severe head injuries. The Krishnagiri Town Police registered an FIR (Cr. No. 946/2015) under Sections 279 and 304(A) IPC, attributing negligence to the lorry driver. The claimants—wife and two minor children filed a claim for Rs. 60,00,000/-, citing that the deceased was employed as a driver with TNSTC, earning Rs.31,000/- per month, and was the sole breadwinner of the family.

3. The Tribunal, after considering the evidence, concluded that the accident occurred due to the rash and negligent driving of the lorry driver and held the owner and insurer liable for compensation. The Tribunal

rejected the appellant-insurer's contention that the accident was a "hit-and-run" case caused by an unknown vehicle. The Tribunal awarded Rs.38,49,072/- as compensation under various heads, with interest at 7.5% per annum from the date of filing the petition.

4. The appellant, TATA AIG General Insurance Company Ltd., contended that the Tribunal erred in holding the insurer liable, despite the lack of direct evidence proving the involvement of the insured lorry. The FIR (Ex.P1) itself recorded the case as a "hit-and-run" accident, and no direct evidence confirmed that the lorry was responsible for the accident. The Tribunal failed to consider inconsistencies in the statements of PW1 (wife of the deceased) and PW3 (eye-witness). The compensation awarded was excessive and arbitrary.

5. The primary contention of the appellant is that the insured vehicle was not involved in the accident and that the Tribunal erred in fastening liability on the insurer. However, The FIR (Ex.P1) and the oral testimony of PW3 (eye-witness) clearly established that the insured lorry hit the deceased's two-wheeler. The owner of the lorry (1st respondent) did not dispute the vehicle's involvement. The appellant-insurer failed to present

any substantial evidence to contradict the claimants' version. The appellant heavily relied on the FIR's classification of the case as a "hit-and-run" accident. However, The FIR is not a conclusive proof of facts and must be assessed along with witness testimonies and other evidence. The Tribunal rightly placed greater weight on PW3's testimony, which confirmed that the insured lorry was responsible for the accident.

6. The Tribunal, in calculating compensation, accepted the deceased's monthly income as Rs.31,000/-, considering his employment with TNSTC. Applied a multiplier of 13, considering the deceased was 49 years old at the time of death. Granted compensation under conventional heads such as loss of consortium, parental care, and funeral expenses. The awarded compensation appears reasonable and justified, considering the deceased's dependants and financial status. Thus this Court finds no reason to interfere with the well-reasoned award of the Tribunal.

7. The Civil Miscellaneous Appeal is dismissed, confirming the award dated 16.07.2021 passed by the Motor Accidents Claims Tribunal, Krishnagiri, in MCOP No. 437 of 2017. The appellant / Insurance Company is directed to deposit the entire award anount along with interest at the rate

of 7.5% per annum from the date of petition till the date of deposit, if already not deposited to the credit of M.C.O.P.No.437 of 2017 on the file of Motor Accidents Claims Tribunal, Special District Court, Krishnagiri, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimants are entitled to withdraw the same by filing proper application. The apprortionment made by the Tribunal is unaltered. The share amount of the minor petitioners 2 & 3 shall be invested in any one of the Nationalised Banks, until their attain majority and the first petitioner being their mother and natural guardian is permitted to withdraw the interest accrued on the share of the minors once in three months for the maintenance and welfare of the minors. No costs.

[R.S.K., J.] **[A.D.M.C., J.]**
21.02.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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Copy to

The Motor Accidents Claims Tribunal,

Special District Court, Krishnagiri.

R.SURESH KUMAR

AND

DR. A.D.MARIA CLETE

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