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C.M.A.No.3547 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A. No.3547 of 2024

and

C.M.P. No.30018 of 2024

The New India Assurance Company Ltd.,
82, Railway Station Road,
Gudiyatham.

... Appellant

Vs.

1.S.Geetha

2.Minor Dinesh Kumar

3.Minor Viknesh

2,3 minors rep. By their Guardian/Next friend
Mother, the 1st petitioner, S.Geetha

4.Anjali

5.V.Kumar

6.United India Insurance Company Ltd.,
Office at No.24, White's Road, Chennai – 14.

7.M.Jayaprakash

... Respondents



C.M.A.No.3547 of 2024

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor

WEB COPY Vehicles Act, 1988, against the Judgment and decree dated 06.03.2024 made in M.C.O.P.No.302 of 2013 on the file of the Motor Accident Claims Tribunal, Sub Judge at Arni, Tiruvannamalai District.

For Appellant : Mr. S.P. Chockalingam assisted by
Ms. Sri Sangeetha.

For Respondents : Mr. S.L. Venkatesan for R1 to R4.
R5 to R7 – No appearance.

J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, challenging the award and decree dated 6.3.2024 passed by the Motor Accidents Claims Tribunal, Subordinate Judge Court, at Arni, Thiruvannamalai District, in MCOP No. 302 of 2013.

2. The appellant, The New India Assurance Company Ltd., contends that the Tribunal failed to consider that the vehicle insured with the appellant is not responsible for the accident. The Tribunal in connected case in respect of the same accident MACOP No.304 of 2012 had found that the vehicle insured with the 6th



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respondent alone responsible for the accident. The Tribunal also erroneously fixed

the monthly income of the deceased at Rs. 18,000/- per month.

3.The accident occurred on 01.11.2013 and involved three vehicles. The case of the claimants, as supported by the police, is that on 01.11.2013, the deceased Saravanan was riding a Pulsar motorcycle bearing Registration No. TN 20 CZ 0985 from north to south along the Arcot–Arni Road, carrying his wife and younger son as pillion riders. When they neared Valayapatti Junction, the fifth respondent, driving an Indica car bearing Registration No. TN 07 BA 9043, entered the Arcot–Arni Road from the Valayathur Road (east to west) at high speed and in a negligent manner, and hit the motorcycle from behind. The Indica car was insured with the sixth respondent, United India Insurance Company. Due to the impact, Saravanan fell to the right side of the road while the pillion riders fell to the other side. At that moment, the seventh respondent, driving a Tata Sumo bearing Registration No. TN 09 1 2554 from south to north (Arni to Arcot), ran over Saravanan, causing his death. His wife sustained fracture injuries. The Tata Sumo was insured with the appellant.

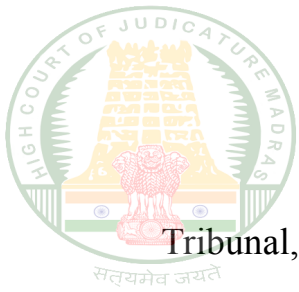


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4. The wife of the deceased, Saravanan, along with her minor children and mother-in-law, filed M.C.O.P. No. 302 of 2013 seeking compensation for his death. She filed M.C.O.P. No. 304 of 2013 as well claiming compensation for the injuries she sustained in the same accident.

5. The Tribunal, while deciding M.C.O.P. No. 302 of 2013, after considering the evidence, held that the death of the two-wheeler rider, Saravanan, was caused due to the rash and negligent driving of both the Indica car and the Tata Sumo. It accordingly directed the appellant and the sixth respondent, being the insurers of the respective vehicles, to pay the compensation amount of Rs. 34,79,000/- in equal proportion. In M.C.O.P. No. 304 of 2013, the Tribunal held that the wife of the deceased, who was riding as a pillion, sustained injuries due to the negligent driving of the fifth respondent, and directed the sixth respondent, the insurer of the Indica car, to pay the compensation awarded to her.

6. The contention of the appellant that the finding in M.C.O.P. No. 304 of 2013—wherein the Tribunal held the sixth respondent solely responsible—should also apply to M.C.O.P. No. 302 of 2013, is misconceived and unsustainable. The



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Tribunal, based on the evidence, found that the death of the motorcycle rider, Saravanan, was caused due to the combined negligence of the drivers of both the Indica car and the Tata Sumo—namely, the fifth and seventh respondents. The accident occurred at Valayathur Junction, where the Indica car, coming from a side road, ought to have stopped and proceeded with caution. Instead, the fifth respondent entered the main Arcot–Arni Road in a rash and negligent manner and hit the motorcycle from behind, causing the rider to fall onto the road. At that moment, the Tata Sumo, driven by the seventh respondent, ran over the fallen rider. Given that the accident occurred at a junction, the seventh respondent, had he been alert and cautious, could have avoided the fatal impact. Hence, the Tribunal rightly found both drivers negligent and attributed the cause of death to their combined acts.

7. In contrast, in M.C.O.P. No. 304 of 2013, the Tribunal dealt with the injuries sustained by the wife of the deceased, who was a pillion rider. Her injuries were the result of the Indica car hitting the two-wheeler from behind, and there was no involvement of the Tata Sumo in causing those injuries. Therefore, the Tribunal fastened liability solely on the sixth respondent, the insurer of the Indica car.



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Accordingly, there is no inconsistency in the findings of the Tribunal across the two claim petitions. The Tribunal's conclusion directing the appellant and the sixth respondent to share liability equally in M.C.O.P. No. 302 of 2013 is based on sound reasoning and does not warrant interference.

8. The Tribunal's finding on the monthly income of the deceased is supported by documentary evidence. The first respondent produced a certificate issued by the Tamil Nadu Construction Welfare Board, Chennai, confirming that the deceased was employed as a mason, along with a salary certificate from the employer indicating that the deceased had been in continuous employment for about ten years and was earning Rs.25,000/- per month. After considering these documents, the Tribunal reasonably assessed the monthly income of the deceased at Rs.18,000/-. This finding is based on evidence and does not warrant any interference. The compensation awarded under the other heads are also fair and just. In conclusion, this Court finds no ground to interfere with the well-reasoned award passed by the Tribunal.



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9. Accordingly, the Civil Miscellaneous Appeal filed by the appellant is dismissed and the appellant is directed to deposit the award amount determined by the Tribunal, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit (less the default period, if any) along with interest and costs, if not already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the respondents 1 to 4 are permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn as per the apportionment fixed by the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.K., J) (A.D.M.C., J)

27.03.2025

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Index: Yes / No

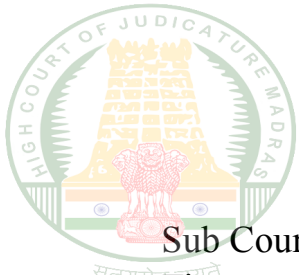
Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1.The Motor Accident Claims Tribunal,

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Sub Court at Arni,
Tiruvannamalai District.

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

R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

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