



C.M.A.Nos.2654 of 2019 and 621 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.09.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

and

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.2654 of 2019

and

C.M.A.No.621 of 2025

and

C.M.P.No. 13061 of 2019

C.M.A.No.2654 of 2019

United India Insurance Co.Ltd.

Muthiah Complex, 2nd Floor,

1170, Mettur Salai, Erode.

..2nd Respondent/Appellant

/versus/

1.Pavayammal, 7 years,
W/o Late Govindasamy

2.Ganesan, 55 years,
S/o Late Govindasamy,

3.Rajendran,53 years,
S/o Late Govindasamy

4.Mahalingam, 51 years,
S/o Late Govindasamy

5.Kumar, 44 years,
S/o Late Govindasamy



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6.Arumugam, 36 years,
S/o Late Govindasamy

All are residing at Koodakkal,
Poolampatti, Edapadi Taluk,
Salem District.
(As per I.A.No.806/2017, dated
22.06.2017)

..Petitioners

7.Rajappan,
S/o Angaiya,
Residing at No.1/207, Jittandahalli,
Palacode, Dharmपुरi District.

..1st Respondent/
Respondents 1 to 7

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 30.11.2017 made in M.C.O.P.No.229 of 2011 on the file of the Motor Accidents Claims Tribunal, Sub Court, Sankari.

For Appellant :Mr.S.Arun Kumar
For Respondents :Mr.T.S.Arthanareeswaran for R1 to R5
R6-died
R7-No appearance

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1.Pavayammal (70), W/o Late Govindasamy
2.Ganesan (55), S/o Late Govindasamy,
3.Rajendran (53), S/o Late Govindasamy
4.Mahalingam (51), S/o Late Govindasamy
5.Kumar (44), S/o Late Govindasamy
6.Arumugam (36), S/o Late Govindasamy

All are residing at Koodakkal,
Poolampatti, Edapadi Taluk,
Salem District.

..Appellants/Petitioners



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/versus/

1.Rajappan, S/o Angayya,
1/207, Jittandahalli,
Palacode, Dharmपुरi District.

2.United India Insurance Co.Ltd.
Muthiah Complex, 2nd Floor,
1170, Mettur Salai, Erode.
(Notice to R1 may be dispensed with
for the set ex-parte before the Tribunal)

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.229 of 2011, dated 30.11.2017 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge Court, Sankari.

For Appellants :Mr.T.S.Arthanareeswaran
For Respondents :Mr.S.Arun Kumar for R2
R1 dispensed with

COMMON JUDGMENT

(The Order of the Court was made by Dr.G.JAYACHANDRAN,J.)

These appeals have been filed against the judgment and decree in M.C.O.P.No.229 of 2011, dated 30.11.2017 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Sankari.



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2. One Mr.Govindasamy, a former MLA of the Tamil Nadu State Legislative Assembly met with a road accident on 06.04.2010, while riding a two wheeler bearing Reg.No.TN 52 K 4576 (TVS XL Super). At the time of the accident, he was 74 years old and engaged in agriculture activities besides receiving a pension payable as a formal MLA. Stating his income and loss caused due to his death, his wife and five sons joined together and filed a claim petition seeking a sum of Rs.25,00,000/- as compensation for the loss of income of the deceased Govindasamy arising out of the road accident. The owner of the offending vehicle and the insurer are arrayed as respondents 1 and 2. The owner of the offending vehicle remained exparte. Whereas, the Insurance Company contested the claim petition on liability as well as on quantum.

3. The Tribunal framed the following Issues:-

(i)Whether the death of Govindasamy was caused due to rash and negligent driving of the rider of the two wheeler bearing Reg.No.TN 29 AZ 4285 and who is liable to pay compensation?

(ii)Whether the petitioners are the legal heirs of the deceased



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Govindasamy?

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(iii) Whether the petitioners are entitled to the compensation claimed?

4. Before the Tribunal, three witnesses were examined on behalf of the claimants and one witness was examined on behalf of the Insurance Company. 31 documents were marked by the claimants as Ex.P1 to Ex.P31. On behalf of the respondents, a copy of the Insurance Policy was marked as Ex.R1.

5. Taking into consideration the Income Tax Return filed by the deceased and the pension documents as well as evidence of PW-3, who had spoken about the esteemed income derived by the deceased Govindasamy through his agricultural property, the Tribunal had fixed notional income from agricultural property at Rs.5,00,000/-, from business at Rs.1,91,370/- and from annual pension of Rs.1,20,000/- and fixed the total annual income of the deceased Govindasamy at Rs.8,12,000/-.



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6. Considering his age, the Tribunal applied the multiplier '5' and deduced 1/5th of his income towards his personal expenditure. Accordingly, a sum of Rs.32,48,000/- was fixed towards loss of income and thereafter, by applying the principle laid down in *National Insurance Co.Ltd., v. Pranay Sethi and others* reported in [2017(16) SCC 680], the Tribunal awarded a sum of Rs.25,000/- each to the sons, who are the claimants 2 to 6 towards loss of love and affection and awarded a sum of Rs.50,000/- to his wife towards loss of love and affection. The deceased Govindasamy died three days after the accident and therefore, Rs.50,000/- was awarded towards pain and sufferings. In addition, towards loss of estate and funeral expenses, a sum of Rs.15,000/- each was awarded. Thus, a total sum of Rs.35,08,000/- was awarded as compensation, which is rounded off Rs.35,10,000/- with interest at the rate of 7.5% per annum was awarded by the Tribunal. The said amount was directed to be apportioned between the claimants 1 to 6 as follows:-

1 st claimant/petitioner	:Rs.10,10,000-00
Claimants 2 to 6/Petitioners	
2 to 6	:Rs.5,00,000-00 each



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7. Being aggrieved, the Insurance Company/appellant has preferred an appeal in C.M.A.No.2654 of 2019. The claimants have joined together and preferred the appeal for enhancement in C.M.A.No. 621 of 2025.

8. Mr.S.Arun Kumar, learned counsel appearing for the Insurance Company/appellant in C.M.A.No.2654 of 2019 submitted that the deceased is an income tax assessee and he has not disclosed the income from the agriculture. However, the Tribunal had fixed a sum of Rs.5,00,000/- towards loss of income through agriculture. It was further submitted that the agriculture land was admittedly held by the family jointly and therefore, the death of Govindasamy had no impact on the income allegedly derived from the agriculture land. The fanciful claim of the claimants that they had lost the agriculture income ought not to have been considered.

9. The learned counsel for the Insurance Company submitted that there is no evidence to show that any income was derived from the agriculture land. Though the documents filed to show that the deceased had



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purchased the agricultural property during his lifetime, the oral evidence of villagers, neither supported by the income returns, nor any documents issued by the revenue department to prove the cultivation and income, is unjustified. Therefore, the award of Rs.5,00,000/- towards loss of income from agriculture is baseless and hence, it has to be reduced.

10. Per contra, the learned counsel appearing for the claimants, who have also filed an appeal for enhancement submitted that the Tribunal, having held that the estimated income from the agriculture land would be around Rs.35,00,000/- per annum, should not have reduced the agriculture income to Rs.5,00,000/- per month and awarded lesser compensation.

11. He further submitted that the deceased, at the age of 74 years, was in good health and earning around Rs.1,00,000/- per month. Due to his sudden demise, the claimants who are the family members have lost the said income of the victim who is the kartha of the family. Therefore, the claim is that the award of the Tribunal for loss of income is to be enhanced to Rs.25,00,000/-.



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12. Heard the learned counsels appearing on both sides and their rival submissions.

13. A perusal of the records indicates that at the time of his death, the deceased Govindasamy was 74 years old. He was an income assessee and his income tax return indicates that the annual income of Govindasamy during the previous year (financial year 2008-2009) was Rs.1,91,370/-. Though Ex.P11 to Ex.P27-sale deeds of property were purchased between 07.09.1977 and 12.09.2008, either for the financial year 2007-2008 or for the financial year 2008-2009 income from the agriculture was not disclosed. For the first time, it is contended that for the sake of claim that the deceased Govindasamy was earning Rs.35,00,000/- p.a., through his agriculture property.

14. The Trial Court had considered the said plea and in the light of information provided by PW-3, had tentatively estimated that the deceased Govindasamy should have earned a sum of Rs.5,00,000/-. The contention that the land held by Govindasamy should have earned a sum of Rs.35,00,000/- per annum is taking into account that the claimants 2 to 6



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were also taking care of the land and the income was the joint accrual of the entire family, a sum of Rs.5,00,000/- has been fixed as notional income of Govindasamy towards agriculture lands.

15. This Court finds that the manner in which the income from the agriculture land was fixed by the Tribunal, is not based on sound proportion or evidence. As pointed out by the learned counsel appearing for the Insurance Company, the income from the agriculture land is not altered due to demise of Govindasamy and it is admitted by the witness, who is the son of Govindasamy that they are still carrying on agriculture activity and deriving income. However, they deposed that due to demise his father, the aid and advise of his father was lost, which was reflected in the income from the agriculture land.

16. This Court finds that for the loss of aid and advise in the agriculture activity, a sum of Rs.5,00,000/- per month is excessive. More so, there is no evidence to show the actual income from the agriculture land either by way of income tax returns or certificates from the revenue authorities, which could reflect that the lands which covers Ex.P11 to Ex.P27



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17. In the said circumstances, there cannot be any loss of income to the claimants from the agriculture land on account of the demise of Govindasamy. The property is still with the claimants and any income therefrom should be assessed by them. The death of Govindasamy is immaterial in so far as the income derived from the agriculture land is concerned. Therefore, for loss of aid and advise the fixation of Rs.5,00,000/- per annum is unwarranted and the same is to be deleted.

18. In view of the above, the award of the Tribunal is modified as below:-

Loss of income
(Rs.1,91,370/- p.a+ Rs.1,20,000/-p.a)
after deducting 1/5th for personal
expenditure
(Rounded to Rs.3,12,000-1/5=62,400
Rs.2,49,600x5) :Rs.12,48,000-00

Loss of consortium for
claimants 1 to 6(Rs.40,000/-each) :Rs. 2,40,000-00



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Loss of pain and sufferings	:Rs. 15,000-00
Loss of Estate	:Rs. 15,000-00
Funeral expenses	:Rs. 15,000-00

Total	:Rs.15,33,000-00

19. As a result, *the Civil Miscellaneous Appeal filed by the Insurance Company in C.M.A.No.2654 of 2019 is partly allowed. The Civil Miscellaneous Appeal filed by the claimants in C.M.A.No.621 of 2025 is dismissed.* The award of the Tribunal in M.A.C.T.O.P.No.229 of 2011 dated 30.11.2017 is hereby modified from **Rs.35,08,000/-** to **Rs.15,33,000/-** with interest at the rate of 7.5% p.a. from the date of the petition, till the date of realisation. The first claimant, being the wife of the deceased is entitled to a sum of Rs.6,00,000/- with accrued interest and the other claimants, who are the sons of the deceased, are entitled to their respective shares (Rs.1,86,600/- each of the claimants) from the remaining amount of Rs.9,33,000/- with accrued interest

20. The learned counsel appearing for the Insurance Company submitted that the entire award amount has already been deposited before the Tribunal.



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21. In view of the above, the claimants are directed to withdraw their respective shares in accordance with the apportionment made by this Court by filing of an appropriation petition before the Tribunal. The Insurance Company is directed to withdraw the balance amount, if any, by filing of an appropriate petition before the Tribunal. Consequently, connected Miscellaneous Petition is closed.

(Dr.G.J.J.) & (M.S.K.J.)
24.09.2025

Index:yes/no
Internet:yes
Speaking order/non speaking order
Neutral citation:yes/no
ari

To

1.The Motor Accidents Claims Tribunal, Subordinate Court, Sankari.

2.United India Insurance Co.Ltd. Muthiah Complex, 2nd Floor, 1170, Mettur Salai, Erode.

Dr.G.JAYACHANDRAN, J.



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