



C.M.A(MD)No.423 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2025

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MRS.JUSTICE N.MALA**

**C.M.A(MD)No.423 of 2023
and
C.M.P(MD)No.5106 of 2023**

The Oriental Insurance Company Limited,
CBO 2, 73/B, Salai Road,
Lakshmi Complex,
Thillai Nagar,
Trichy-18.

... Appellant/2nd Respondent

-VS-

1.Uma

... 1st Respondent/1st Petitioner

2.Minor.Sathyashri

... 2nd Respondent/2nd Petitioner

3.Minor.Mohaneeshwaran

(2nd and 3rd respondents are represented
through their natural guardian/
1st respondent)

.... 3rd Respondent/3rd Petitioner

4.Gopalakrishnan

.... 4th Respondent/1st Respondent

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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the award dated 11.08.2022 made in M.C.O.P.No.1264 of 2017 on the file of the learned Special District Court for MCOP Cases, Trichy.

For Appellant : Mr.A.Ilango

For R - 1 to R - 3 : Mr.J.Balameenakshi

For R – 4 : Died

JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

This Civil Miscellaneous Appeal has been preferred as against the award passed in M.C.O.P.No.1264 of 2017, dated 11.08.2022 on the file of the Special District Court for MCOP Cases, Trichy.

2.The appellant is the insurer of the first respondent's vehicle. On 05.05.2015, at about 03.00 p.m., the deceased, after attending a meeting at the Government Higher Secondary School,



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Musiri, Trichy District, was proceeding to Perur from south to north in his TVS XL Super two wheeler bearing Registration No.TN-47-Z-8687, on the extreme left hand side of the road near Ellai Karuppu Kovil bridge. At that time, a car bearing Registration No.TN-48-H-7081, driven by its driver in a rash and negligent manner, came from the same direction and hit the deceased's two wheeler from behind. As a result, the deceased fell down and sustained injuries. He was initially taken to the Government Hospital, Musiri and thereafter, to Ortho-one Private Hospital, Musiri, on 06.05.2015. Thereafter, from 07.05.2015 onwards, he took treatment at Nallampatti, Dharmapuri District, once in fifteen days. Thereafter, he took treatment from 01.06.2017 to 11.01.2017 at the residence of Dr.Subramanian. Subsequently, he died on 12.01.2017. On the complaint, an F.I.R was registered in Crime No.285 of 2015 for the offences punishable under Sections 279 and 337 of I.P.C. Therefore, the respondents 1 to 3 being the legal heirs of the deceased, filed a claim petition.



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3.On the side of the claimants, P.W.1 to P.W.4 were examined and Exs.P1 to P16 were marked. On the side of the respondent, RW1 was examined and Exs.D1 to D4 were marked.

4.On perusal of the oral and documentary evidence, the Tribunal awarded compensation to the claimants to the tune of Rs.42,56,800/-. Aggrieved by the same, the insurer of the first respondent's vehicle filed this appeal.

5.The learned counsel appearing for the appellant submitted that the accident occurred on 05.05.2015 and that the deceased took treatment for one day in the Government Hospital, Musiri. Thereafter, he joined duty as Headmaster and worked continuously from 12.06.2015 to 06.01.2017. The deceased died on 12.01.2017 due to a cardiac issue. Therefore, the death was not caused due to the injuries sustained in the accident dated 05.05.2015 and there was no direct nexus between the injuries and the death.



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The Doctor who examined the deceased immediately after the accident recorded the accident register, which was marked as Ex.P2.

As per the said register, the deceased sustained five injuries, of which only one was a fracture in the right ankle and other injuries were lacerated wounds and simple in nature. Hence, the appellant contended that the death was not attributed to the injuries sustained in the accident and that the insurer is not liable to pay compensation.

The attendance register was marked to show that the deceased attended school continuously from 12.06.2015 till 06.01.2017. Only from 07.01.2017 he suffered from certain ailments and was treated at his residence by P.W.2. Further, no post mortem was conducted to establish that the death was caused due to the injuries sustained in the accident and there is no documentary evidence connecting the injuries with the death. Despite these facts, the Tribunal without considering the above facts and circumstances mechanically allowed the claim petition and awarded compensation in favour of the claimants.



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6.Per contra, the learned counsel appearing for the claimants submitted that the deceased sustained injuries all over his body and was immediately admitted to the Government Hospital, Musiri. The accident register was marked as Ex.P2 reflects the injuries sustained, which ultimately led to his death after a period of two years. It was further contended that the deceased was continuously taking treatment and that the Tribunal rightly awarded compensation, as the death occurred due to the injuries sustained in the accident on 05.05.2015. Hence, it does not warrant any interference by this Court.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.The only point that arises for consideration in this appeal is whether the deceased died due to the injuries sustained in the accident occurred on 05.05.2015.



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9. There is no dispute that the vehicle owned by the fourth respondent hit the deceased's two wheeler on the said date while he was proceeding to Perur, causing him to fall down and sustain the following injuries:

- 'a. Multiple abrasions over left upper limb.*
- b. Multiple abrasions over right upper limb.*
- c. Lacerated injuries in right eye.*
- d. Pain over right hip and lumbar region.*
- e. Swelling deformity over right thigh.'*

10. Immediately after the accident on 05.05.2015, the deceased was taken to the Government Hospital, Musiri, where he was admitted as an inpatient for one day. On 06.05.2015, he was discharged against medical advice and went to Ortho-One Private Hospital, Musiri, for X-ray examination. X-rays of the hip and right ankle were taken and marked as Ex.P4, which revealed a small fracture in the right knee with muscle sprain, and no fracture to the



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pelvic bone. Other injuries were lacerated and simple in nature. For treatment of the fracture and muscle sprain, the deceased went to Nallampatti, Dharmapuri, where plaster of Paris bandage was applied. Thereafter, he joined duty on 12.06.2015, as evidenced by Document No.1, which shows that he worked continuously till 06.01.2017. Subsequently, he suffered from a heart ailment and was treated at home by P.W.2 from 07.01.2017 to 11.01.2017. On 12.01.2017, he died due to cardiac arrest. Therefore, till 06.01.2017 the deceased was on duty as headmaster. No postmortem was conducted to ascertain the cause of death. Hence, there is no proof that the death occurred due to the injuries sustained in the accident.

11.The specific case of the claimants is that though the deceased went to school from 12.06.2015, he was continuously taking treatment thereafter. However, in order to substantiate the said contention, the claimants did not produce any piece of evidence to that effect. After the accident, the deceased was taken to the



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Government Hospital, Musiri, where the accident register was recorded and the same was marked as Ex.P2. Thereafter, on 06.05.2015, he was discharged from the hospital against medical advice and went to Ortho-one Private Hospital, Musiri for taking an X-ray. The X-ray was taken and the same was marked as Ex.P4. Except these documents, no other documents were produced by the claimants to prove that the deceased was continuously taking treatment.

12.Even assuming that the deceased was taken to Nallampatti, Dharmapuri District, it was only for bandaging his ankle fracture and muscle sprain with plaster of Paris. The place Nallampatti in Dharmapuri District is very familiar for such bandaging, using some starch to heal the fractures. This place is known for treatment using certain natural ingredients to bandage fractures with starch.



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13.Further, even assuming that the deceased had taken treatment at Nallampatti Dharmapuri District, it was for only one week. Immediately thereafter, he had joined duty from 12.06.2015 itself, which is also evident from Witness Document No.1. Therefore, there was no continuous treatment for the deceased till his demise. He was admitted as an inpatient only for one day in the Government Hospital Musiri, Trichy District.

14.The claimants examined P.W.2, the Doctor who treated the deceased. He deposed in chief-examination that the deceased sustained injuries to his spinal cord in the accident that occurred on 05.05.2015 and that he was treated by P.W.2 from 07.01.2017 to 11.01.2017 for bedsores. Since the deceased sustained bedsores, he took treatment at the residence of Dr.Subramanian/P.W.2, who treated him till 11.01.2017 and advised him to go to a hospital for better treatment. However, on 12.01.2017, the deceased died.



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15.In cross-examination, P.W.2 deposed that the deceased died due to bedsores and that the deceased sustained bedsores because he was bedridden from the date of accident. This version is absolutely false, as the deceased had joined the school as Headmaster as early as on 01.06.2015 and had attended the school continuously till 06.01.2017. Therefore, the deceased was not bedridden, and the evidence of P.W.2 cannot be accepted in the absence of any supporting material evidence.

16.That apart, there is no piece of evidence to show that the deceased sustained spinal cord injuries due to the accident. As stated earlier, the deceased sustained only five injuries, as per the accident register marked as Ex.P.2 by the medical officer of the Government Hospital Musiri, Trichy District. Except swelling in the right leg, the other injuries were lacerations and simple in nature. Those injuries were not the cause of death. Therefore, in the absence of any evidence to establish that the death occurred due to the injuries



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sustained in the accident, the award of compensation passed by the Tribunal cannot be sustained and is liable to be set aside.

17.Moreover, it is curious to note that till his demise, the deceased did not file any claim petition for the injuries sustained by him in the accident. This shows that he did not suffer any serious injuries except muscle sprain in his right ankle. Only after his demise, the legal representatives filed the claim petition claiming compensation as if the deceased died due to the injuries sustained in the accident.

18.At the most, the claimants are entitled to compensation for the expenses incurred during the treatment of the deceased and for pain and suffering caused by the injuries sustained by him. Since there is no medical document to indicate that the deceased suffered any other bodily injuries, was treated continuously in the hospitals, developed complications and despite such treatment died due to the

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19. The quantum of compensation has to be calculated as per the maxim “Actio personalis moritur-cum-personna”, which means that a personal action dies with the person. This maxim has a limited application and operates only in a limited class of actions ex delicto, such as actions for damages, assault or other personal injuries not causing the death of the party, and in cases where, after the death of the party, the relief granted could not be enjoyed or would become nugatory. Hence, it relates only to the personal injury, pain and suffering experienced by the deceased on account of the injuries and cannot be extended to the loss of estate of the deceased.

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fact, there was no loss of income due to the injuries sustained by the deceased. The deceased was admitted to the Government Hospital, Musiri Trichy District and had taken treatment for one day on 05.05.2015 and at Nallampatti, Dharmapuri District till his joining in the school on 12.06.2015. Though there is no document to show that the deceased had taken treatment till his joining duty or that he incurred medical expenses during that period, this Court treats the said period as the treatment period and is inclined to award compensation as follows:

Under the Head of Compensation	Amount
Medical Expenses	Rs.1,20,000/-
Transportation	Rs. 25,000/-
Nutrition	Rs. 20,000/-
Damages to Clothes	Rs. 5,000/-
Pain and Sufferings	Rs. 50,000/-
Total	Rs.2,20,000/-



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21.Thus, the claimants are entitled to the modified compensation of **Rs.2,20,000/-** with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation, as against the sum of Rs.42,56,800/- with 7.5% interest per annum awarded by the Tribunal. The first claimant is entitled for a sum of Rs.80,000/- and the minor claimants 2 and 3 are entitled for a sum of Rs.70,000/- each.

22.When the matter came up for admission on 21.04.2023, this Court granted interim stay without any condition to deposit of award amount as the death occurred two years after the accident and no portmortem was conducted.

23.This Civil Miscellaneous Appeal is partly allowed as indicated above. In fine, the award passed in M.C.O.P.No.1264 of 2017, dated 11.08.2022 on the file of the Special District Court for MCOP Cases, Trichy, is modified. The appellant is directed to



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deposit the modified award amount with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation, less the amount already deposited, if any, as awarded by this Court, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit, the first respondent/major claimant is permitted to withdraw her share with proportionate interest and costs by filing formal permission petition before the Tribunal. The share of the respondents 2 and 3/minor claimants shall be deposited in a Nationalised Bank in a fixed deposit until they attain majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st respondent/mother of the minor claimant, once in three months directly from the bank. No costs. Consequently, connected Miscellaneous Petition is closed.

**[G.K.I.J.] & [N.M.J.,]
11.12.2025**

NCC :Yes/No
Index :Yes/No
ps

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To

1.The Special District Court for MCOP Cases,
Trichy.

2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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AND
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