BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HONOURABLE Mrs.JUSTICE L.VICTORIA GOWRI

CMA. (MD). No.746 of 2025 and
CMP(MD) Nos.11918 and 15540 of 2025

United India Insurance Company Limited,
Through its Branch Manager
Deva Complex, Ramanathapuram Kumaraiah Koil
Ramanathapuram District ... Appellant

v.

1.Veeralakshmi
2.Suresh
3.Veeralekha
4.Panchavarnam
5.Dhanabalan ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 31.08.2023 passed in MCOP No.122 of 2021 on the file of the Motor Accidents Claim Tribunal, Additional District Court, Paramakudi.

For Appellant : Mr.J.S.Murali
For Respondents : Mr.R.Babu Jeganath for R1 to R4
No appearance for R5

JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN, J.)

This Civil Miscellaneous Appeal is directed against the judgment and decree dated 31.08.2023 made in MCOP No.122 of 2021 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Paramakudi.

2. The facts in nutshell, which are required for the disposal of the appeal, are as follows:

On 09.08.2021, when the deceased Ayyachamy was driving his two wheeler bearing registration No.TN-65-BZ-8368 from Parthibanur to Paramakudi Highway, near Keelaperungarai Sridhar thoppu, a Tractor bearing registration No.TN-65-AY-9672 came in the opposite direction in the wrong side in rash and negligent manner, hit the two wheeler, in which, the deceased Ayyachamy sustained grievous injuries. Immediately after the accident, he was taken to the Government Hospital, Paramakudi, where he was declared dead. Pursuant to the said accident, a case in Crime No.150/2021 was registered under Sections 279 and 304(ii) IPC against the driver of the Tractor. For the death of the deceased, the claimants who are the wife, children and mother of the deceased, filed claim petition claiming compensation.

3. In order to prove the case, on the side of the claimants, before the Tribunal, the son of the deceased examined himself as P.W.1 and 13 documents were exhibited as Exs.P1 to P13. On the side of the appellant, R.W.1 to RW.5 were examined and 10 documents were marked as Exs.R1 to R10.

4. The Tribunal, upon considering the oral and documentary evidence, held that the accident had occurred due to the rash and negligent driving of the driver of the vehicle insured with the appellant insurance company. Based on the oral and documentary evidence let in before the Tribunal, the Tribunal awarded compensation of Rs. 1,00,00,000/- along with 7.5% interest from the date of filing of the claim petition till the date of deposit and the appellant insurance company and the 5th respondent herein were directed to pay the said compensation. Challenging the liability to pay compensation and the quantum of compensation, the appellant insurance company is before this Court with this appeal.

5. On the aspect of negligence, the learned counsel for the appellant would submit that it was only the deceased who rode his motor cycle in a rash and negligent manner in a wrong way and dashed against the Tractor, thereby invited the accident and therefore, the Tribunal ought to have fixed contributory negligence. On the aspect of liability, the learned counsel for the appellant would submit that the Tractor alone was insured with the appellant. As per the insurance policy, the Tractor shall be used only for agricultural purpose, whereas, on the date of accident, the Tractor was attached with a Trailer (Water Tanker) and used for commercial purpose contrary to the policy conditions. Further, the person who drove the Tractor attached with Trailer did not possess the valid and effective driving licence to drive the same. Though the appellant had brought these facts to the knowledge of the Tribunal and also examined RW1 to RW5 and marked Exs.R1 to R10 in this regard, the Tribunal had not considered the same in proper perspective and has erroneously fastened liability on the appellant to pay the compensation. Therefore, the learned counsel would submit that the insurance company is not liable to pay the compensation and they are to be exonerated from the liability.

6. As far as the quantum of compensation is concerned, the learned counsel would submit that the deceased was working as a Foreman in TNEB and earning Rs.64,423/- per month and the annual income of the deceased exceeded the ceiling limit for the income tax, whereas, the Tribunal has not deducted any amount towards the income tax. Thus, 30% of the annual income i.e., Rs.3,01,500/- should be deducted towards the income tax and only thereafter, the computation for loss of income has to be made. He would further submit that on the death of the deceased, the son of the deceased/2nd respondent has got employment in TNEB on compassionate grounds and further, the 1st respondent/wife of the deceased is also getting monthly pension of Rs. 27,000/- as such, there is no loss of income on the death of the deceased. The award under other heads are also excessive and requires reduction.

7. The learned counsel for the respondents 1 to 4/claimants, on the other hand, would submit that as far as the accident is concerned, the deceased is only a third party and therefore, even if the appellant insurance company is not liable to pay the compensation, they have to pay the compensation at the first instance and then recover the same from

the owner of the vehicle. As regards the negligence, the Tribunal has considered the oral and documentary evidence adduced on either side and held that the driver of the Tractor was responsible for the accident, whereas, the appellant had not chosen to examine the owner or driver of the Tractor to disprove the manner of accident as alleged by the claimants and therefore, the finding of the Tribunal regarding negligence cannot be said to erroneous. On the quantum, it is submitted that the deceased was working as a Foreman in the Electricity Board and was earning a sum of Rs.64,423/- per month. As per the judgment of the Hon'ble Supreme Court in ***National Insurance Company Ltd., vs. Pranay Sethi*** reported in ***(2017) 16 SCC 680***, 30% of the income has been added for future prospects and having regard to the age of the deceased i.e., 45 years, the Tribunal has rightly applied multiplier 14 and awarded compensation for the loss of income. The compensation under the other heads is also not excessive and hence, the interference of this Court is not necessary. Thus, the learned counsel would pray for dismissal of the appeal.

8. We have considered the submissions made on behalf of the appellant and perused the materials available on record.

9. Though the appellant assailing the finding of the Tribunal regarding negligence has contended that the Tribunal has erroneously fixed negligence on the driver of the Tractor ignoring the fact that the deceased rode his motorcycle in a wrong direction, the appellant had not examined the driver or owner of the Tractor to disprove the manner of accident as alleged by the claimants. The charge sheet has been filed against the driver of the Trator. By considering the oral and documentary evidence, the Tribunal has fixed negligence on the Tractor's driver. This Court finds no perversity in the said finding.

10. As regards the liability, the appellant contended that the Tractor alone was insured with them. However, on the date of accident, the Tractor was used attaching Trailer and further, as per the insurance policy, the Tractor shall be used only for agricultural purpose, whereas, on the date of accident, the Tractor was attached with a Trailer (Water Tanker) and used for commercial purpose contrary to the policy

conditions. The driver of the Tractor also did not possess valid and effective driving licence to drive the Tractor with Trailer. Therefore, the appellant is not liable to pay the compensation.

11. Since on the date of accident, the driver of the Tractor did not possess valid and effective driving licence to drive the Tractor with Trailer and that the agricultural Tractor was used for commercial purpose attaching Trailer (Water Tanker) as found in Ex.P9-charge sheet, this Court is of the view that there was violation of the policy conditions and therefore, pay and recovery ought to have been ordered. Accordingly, the appellant is directed to pay the compensation to the claimants at the first instance and then recover the same from the owner of the vehicle/5th respondent herein.

12. Though the appellant contended that on the death of the deceased, his son/2nd respondent herein got employment on compassionate grounds and wife of the deceased is also getting family pension and therefore, there is no loss of income to the family of the deceased, it is a well settled proposition that getting employment on

compassionate grounds and receipt of family pension will not be a bar for the claimants to claim compensation for the death of the deceased under the Motor Vehicles Act, which is a beneficial legislation. Therefore, the said contention of the appellant cannot be accepted.

13. As far as quantum of compensation is concerned, the deceased was working as a Foreman in the Tamil Nadu Electricity Board and was earning a sum of Rs.64,423/- per month. As per Pranay Sethi's case (cited supra), the Tribunal has added 30% of income towards future prospects and the monthly income is calculated at Rs.83,750/- (64423x30%/100 = 19327+64423=83750). It is the contention of the appellant insurance company that the Tribunal has grossly erred in not deducting any amount towards income tax as per income-tax slab for the assessment year 2021-22. The income-tax slab for the assessment year 2021-22 is extracted hereunder:-

Net income range	**Tax Rates**
Up to Rs. 2,50,000	Nil
Rs. 2,50,001- Rs. 5,00,000	5%
Rs. 5,00,001- Rs. 10,00,000	20%
Above Rs. 10,00,000	30%
Add : Education Cess	4%

The annual income of the deceased is calculated at Rs.10,05,000/- (Rs. 83750 x 12). As per the above income-tax slab, the income tax is calculated as follows:

Net income range	Tax Rates	Tax amount
Annual Income of the deceased = Rs.10,05,000/-		
Up to Rs. 2,50,000	Nil	Nil
Rs. 2,50,001- Rs. 5,00,000	5%	Rs. 12,500/-
Rs. 5,00,001- Rs. 10,00,000	20%	Rs.1,00,000/-
Above Rs. 10,00,000 (30% tax to be calculated for the balance amount i.e., Rs.5,000/-)	30%	Rs. 1,500/-
Total		Rs.1,14,000/-
Add : Education Cess @4%		Rs. 4,560/-
Total Tax payable		Rs.1,18,560/-

14. Thus, a sum of Rs.1,18,560/- is liable to be deducted towards the income tax. If Rs.1,18,560/- is deducted from the annual income of the deceased namely, Rs.10,05,000/-, the annual income works out to Rs.8,86,440/-. Since the dependents of the deceased are 4 in numbers, 1/4th of the income is to be deducted towards the personal expenses of the deceased. After making such deduction, the income works out to Rs.6,64,830/- (Rs. 8,86,440 – Rs.2,21,610). Applying 14 multiplier according to the age of the deceased '45', the loss of income is

calculated at Rs.93,07,620/-. Thus, the award of Rs.1,05,52,486/- towards loss of income is reduced to Rs.93,07,620/-. In addition to the above, the Tribunal has awarded Rs.40,000/- towards loss of income to 1st respondent/wife of the deceased which is unwarranted since the claimants have already been compensated under the head loss of income due to dependency. Therefore, the said award is set aside. Perusal of the award shows that the Tribunal has failed to award reasonable sum under the head 'loss of consortium'. Relying upon the judgment in Pranay Sethi's case, a sum of Rs.40,000/- is hereby awarded for the loss of consortium to the 1st respondent/wife of the deceased. The award of the Tribunal at Rs.15,000/- towards economic costs is set aside and as per the judgment in Pranay Sethi's case, a sum of Rs.15,000/- is hereby awarded towards loss of estate. The award of Rs.15,000/- towards funeral expenses is confirmed.

15. Perusal of the award also shows that the Tribunal has grossly erred in not awarding compensation for the loss of love and affection. The son and daughter of the deceased aged 21 and 18 years respectively lost the love and affection and guidance of their father at the young age.

The 4th respondent/mother of the deceased aged 87 years, also lost the love and affection of her son . Therefore, a sum of Rs.40,000/- each to the respondents 2 to 4 (Totally Rs.1,20,000/-) is hereby awarded for the loss of love and affection.

16. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is modified as follows:

Sl. No.	Heads	Awarded by the Tribunal	Modified /reduced/enhanced
1	Total loss of income	Rs.1,05,52,486/-	Rs. 93,07,620/-
2	Funeral expenses	Rs.15,000/-	Rs.15,000/-
3	Loss of estate	Rs.15,000/-	Rs.15,000/-
4	Loss of consortium to the first respondent wife	____	Rs.40,000/-
5	For loss of love and affection to the respondents 2 to 4	_____	Rs.1,20,000/-
	Total	Rs.1,00,00,000/-	Rs.94,97,620/-

17. In the result, the total compensation is reduced to Rs. 94,97,620/- as against Rs.100,00,000/- awarded by the Tribunal and the respondents/claimants are entitled to modified compensation of Rs. 94,97,620/-. The appellant is directed to deposit Rs.94,97,620/- along

with 7.5% interest from the date of petition till the date of deposit, less the amount already deposited, if any, to the credit of the claim petition, within a period of eight weeks from the date of receipt of a copy of this order. After deposit, the insurance company is at liberty to recover from the owner of the vehicle/5th respondent. On the deposit of the modified award amount now fixed by this Court, the respondents 1 to 4/claimants are permitted to withdraw their respective shares in the ratio apportioned by the Tribunal, by making appropriate application before the Tribunal. No costs. Consequently connected Miscellaneous Petition is closed.

[P.V, J.] **[L.V.G, J.]**
30.10.2025

NCC : Yes/No
Index : Yes/No
RR/bala

P.VELMURUGAN, J.
AND
L.VICTORIA GOWRI, J.

RR/bala

To

1. The Judge,
Motor Accidents Claim Tribunal,
Additional District Court,
Paramakudi.

2.The VR Section
Madurai Bench of Madras High Court,
Madurai.

ORDER IN
CMA(MD)No.746 of 2025

Dated : 30.10.2025