**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Reserved on : 09.10.2025**

Pronounced on : 21.11.2025

CORAM:

**THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A.(MD)No.730 of 2015**
**and**
**C.M.P.(MD)No.15162 of 2024**

The National Insurance Company Limited,
No.33, Promenade Road, Cantonment,
Trichy – 620 001. ... Appellant/ 2nd Respondent

Vs.

1.S.Kaliyaperumal (died)*
2.S.Lakshmi ...Respondents 1 & 2 / Petitioners
3.V.Sivakumar ...3rd Respondent / 1st Respondent
4.Sivanathan
5.Senthil ...Respondents 4 & 5

(Respondents 4 and 5 are brought on record as Lrs. of the deceased 1st respondent vide Court order dated 29.11.2016 made in CMP.(MD)Nos.9545 to 9547 of 2016)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 10.12.2011 made in M.C.O.P.No.828 of 2006 on the file of the Chief Judicial Magistrate Court, Motor Accident Claims Tribunal, Trichy, and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.S.Srinivasaraghavan

For Respondents : Mr.N.Sudhagar Nagaraj – for R2, R4 & R5
died – R1 (steps taken)
*ex parte* – R3

**JUDGMENT**

The appellant/2nd respondent Insurance company has filed this Civil Miscellaneous Appeal against the fair and decretal order dated 10.12.2011 made in M.C.O.P.No.828 of 2006 by the Chief Judicial Magistrate, Motor Accident Claims Tribunal, Trichy.

2.**The brief case of the claimants is as follows**:-

(i) On 31.01.2005, at about 10.15 hours, the deceased Amudha was standing on the road near M/s.Anand Industries, Devaraya Neri, in the course of employment. At that time, a Crane bearing

Registration No.PY 01 E 2842 owned by the 1st respondent, driven by its driver in a rash and negligent manner and dashed against the deceased and as a result of which she was thrown to the ground,and the front wheel of the Crane ran over her . She sustained multiple grievous injuries on the vital part of the body and was taken to Government Hospital, Trichy, where after examination, the doctor declared her dead.

(ii) In this connection, Thuvakudi Police registered a case against the driver of the 1st respondent and conducted an investigation. The petitioners have claimed Rs.8 lakhs as compensation for the loss of life of deceased Amudha arising out of the motor accident.

3. The second respondent National Insurance company filed counter statement denying the averments made in the petition. According to the second respondent, the accident occurred due to the mechanical defects of the Crane. It was further contended that the 1st respondent represented that thecrane was used as a tool and machinery and therefore as per the conditions of the insurance policy, this respondent is not liable to pay any compensation. The second respondent also contended that the claim made by the petitioners is highly excessive and prayed for dismissal of the petition.

4. During trial, on the side of the petitioner, P.W.1 and P.W.2 were examined and Exs.P1 to P9 were marked. On the side of the respondents, R.W.1 and R.W.2 were examined and Exs.R1 to R3 were marked.

5.Upon consideration of the materials available on record, both oral and documentary, the Tribunal awarded a sum of Rs.4,45,000/- and directed the second respondent to pay the award amount along with interest @ 7.5% pa from the date of petition till the date of realisation.

6. Aggrieved by the said award, the Insurance Company is before this Court contending that the place of a occurrence was not a public place and therefore, there is no liability on the part of the appellant/insurance company to indemnify the owner of the vehicle. The deceased was a spinster aged about 18 years at the time of accident. The Tribunal ought to have deduced half monthly salary towards a personal and living expenditure, but the Tribunal detected one third, which is not proper and liable to be set aside.

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

8. Now, this Court has to decide the following point for consideration:-

*(1) whether the order passed by the Tribunal is proper or liable to be set aside ?*

9. Point No.1:

The first ground raised by the appellant is that the place of occurrence was not a public place, but belonged to a private person, and therefore, the insurance company is not liable to pay compensation.

10. On perusal of the records, this court finds that PW2 eyewitness to the occurrence categorically stated that the accident occurred at the entrance point of the company where a road had been laid. RW2, the investigating officer of the insurance company also admitted that the place of occurrence was at the entry point of the company. Therefore, it stands prove that the accident did not occur inside a private place.

11. Section 2(34) of the Motor Vehicles Act, 1988, defines the "public place" as a road, street, or other place where the public has a right of access, including bus stands for picking up and dropping off passengers.

Public place includes roads, streets, way, or other place whether a thoroughfare or not to which the public has a right of access. It also specifically includes any place or stand where passengers are picked up or dropped off by stage carriage.

12. Since the occurrence took place at the entrance of the company premises and not inside the company and the road was being laid at the said place. It clearly shows that the place was a public place to which the public had a right of access. The insurance company failed to produce any documentary evidence to establish that the accident occurred in a purely private place. Therefore, the contention advanced by the insurance company is not sustainable.

14. As far as the second ground is concerned since the deceased was an unmarried person half of the income ought to have been

deducted towards personal and living expenses. However, the Tribunal detected only 1/3rd which is contrary to the principal laid down by the Hon'ble Apex court, and therefore liable to be modified.

15. Since this Court has modified the compensation, the national monthly income is fixed at Rs.4,500/-. As per the principal laid down in ***National Insurance Ltd., Vs. Pranay Sethi [2017 (16) SCC 680]***, 40% towards future prospectus to be added as the disease was self-employed and below 40 years of the age. At the time of death, the deceased was 19 years and therefore, the appropriate multiplier is 18.

16. In this connection, this Court rely upon the decision of the Hon'ble Three Judges' Bench of the Hon'ble Apex Court, in ***Nagappa vs. Gurudayal Singh and others, 2003 ACJ 12: 2004 (2) TN MAC 398 (SC)***, could be cited here. An excerpt from it would run thus:

> *"Firstly, under the provisions of Motor Vehicles Act, 1988 (hereinafter referred to as "the M.V. Act"), there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case where from the evidence brought on record if Tribunal/Court considers that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. Only*

*embargo is - it should be 'just' compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence."*

17. Therefore in order to meet the ends of justice, it is appropriate to rectify the error crept in the judgment of the trial Court and to correct the same by applying the guidelines of the Hon'ble Supreme Court held in Pranay Sethi's case as follows :

The income of the deceased at the time of accident is Rs.4,500/-

Add - Future prospects 40% at Rs.4500 (4500 x 40 % = 1800)

4500 + 1800 = 6,300

Deduct 50% for personal expenditure (6300 x 50/100 = Rs.3150)

6300 – 3150 = 3,150

Annual income of the deceased is (3150 x 12 = 37,800) = 37,800

The age of the deceased at the time death is 19 years (as per school records)

| | | |
|---|---|---|
| Multiplier would be 18 (37,800 x 18) | = | 6,80,400 |
| Loss of love and affection for parents | = | 80,000 |
| Funeral expenses | = | 15,000 |
| Loss of estate | = | 15,000 |
| Total | | **Rs.7,10,400/-** |

Therefore, the claimants are entitled to a sum of Rs.7,10,400/- as compensation. Since the 1st respondent/ 1st Claimant died and is legal heirs were impleaded as respondents 4 and 5. The 2nd respondent/2nd claimant is entitled to a sum of Rs.5,00,000/-, 4th respondent and 5th respondent are entitled to a sum of Rs.1,05,200/- each towards compensation. The Point No.1 is answered accordingly.

18. In the result, the Civil Miscellaneous Appeal is dismissed. The award passed by the trial Court is enhanced and the appellant/ Insurance is directed to pay a sum of Rs.7,10,400/- to the respondents 2, 4 & 5/2nd claimant along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit of the amount, less the amount if already deposited to the credit of M.C.O.P.No.828 of 2006 on the file of the Chief Judicial Magistrate Court, Motor Accident Claims Tribunal, Tiruchirappalli, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the 2nd respondent/2nd claimant is entitled to a sum of Rs.5,00,000/-, 4th respondent and 5th respondent are entitled to a sum of Rs.1,05,200/- each towards their share and on such deposit, the respondents 2, 4 & 5 are permitted to withdraw their share, less the amount already withdrawn, if

any, together with proportionate interest and costs, by filing an appropriate petition before the Tribunal. The respondents 2, 4 & 5 are directed to pay the appropriate Court fee for the enhanced award amount. No costs. Consequently, connected miscellaneous petition is closed.

**21.11.2025**

Index : Yes / No
NCC : Yes / No

RM

To

1.The Chief Judicial Magistrate Court,
Motor Accident Claims Tribunal,
Trichy.

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.

**R.POORNIMA, J.**

RM

Judgment in

**C.M.A.(MD)No.730 of 2015**

**21.11.2025**