



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

DATED : 13.11.2025

CORAM:

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HON'BLE MRS JUSTICE L.VICTORIA GOWRI**

**C.M.A(MD)No.925 of 2025
and
C.M.P(MD)Nos.14052 and 17306 of 2025**

The Divisional Manager,
M/s.United India Insurance Company Limited,
137, KPV complex,
Pandalgudi Road,
Aruppukottai,
Virudhunagar District-66 101.

...Appellant/Second Respondent

.Vs.

1.R.Venkatesh Murugan

2.Minor V.Prem

3.Minor V.Ashwin

... Respondents 1-3/Claimants 1-3

4.Rajathilagam

...Respondent No.4/Respondent
No.1

T.Pandian(died)

...../Third Respondents

5.The Divisional Manager,
M/s.The Oriental Insurance Company Limited,

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T.P Hub, KJR Complex,
First Floor, 16, North Veli Street,
Madurai.

...5th Respondent/Fourth Respondents

6.S.Udayathullah

7.The Branch Manager,
M/s.Reliance General Insurance Company,In
Sakthi Super market, Third floor,
408, Perundurai Road,
Erode – 638 011.

..7th Respondent/6th Respondent

8.P.Kannan

9.P.Dhanapal

..Respondents 8 and 9/Respondents
7 and 8

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree made in M.C.O.P.No.3 of 2020 dated 21.4..2025, on the file of the Motor Accidents Claims Tribunal/Sub Court, Aruppukottai.

For Appellant : Mr.N.Ganesh

For R1 to R3 : Mr.M.Jothi Basu

For Respondent-7 :Mr.V.Sakthivel

For Respondents-
4,5,6,8 and 9 : No appearance



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JUDGMENT

(Order of the Court was made by **P.VELMURUGAN.,J**)

This Civil Miscellaneous Appeal is filed against the judgment and decree made in M.C.O.P.No.3 of 2020 dated 21.4.2025, on the file of the Motor Accidents Claims Tribunal/Sub-Court, Aruppukottai.

2.The parties are referred to herein as per their ranking before the Tribunal, for easy reference.

3.The Case of the claimant in brief is as follows:

On 12.5.2018, when the deceased Priya in M.C.O.P.No.3 of 2020 along with her husband Venkatesh Murugan(injured claimant in M.C.O.P.No.4 of 2020) after seeing Cinema in Lakshmi Theatre, Aruppukkottai proceeding to their house in their two wheeler namely TN 33 BH 2332 Royal Enfield Bike near Aruppukkottai Bye pass driven by her husband at about 6.00 p.m. near Varadharaja Perumal Koil on eastern side in the service road when they are proceeding from north to south and at that time a van bearing Registration No. TN 58 3207 driven by its driver in rash and negligent manner and dashed against

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the above said vehicle and Priya fell down and at that time, auto bearing Registration No. TN 67 BY 2331 which came behind dashed against Priya and died on the spot and her husband Venkatesh Murugan sustained injuries. In this regard a case in Crime No.211/2018 under Section 279, 337 and 304 IPC was registered against the van driver. Hence the claimants in M.C.O.P No.3 of 2020 claimed a sum of Rs.75 lakhs as compensation.

4.The averments of the second respondent therein/appellant herein is as follows:

All the averments other than which are accepted has to be proved as per law and not sustainable in law. The fact that the first respondent is responsible for the accident is denied. The Injured claimant in M.C.O.P.No.4 of 2020 only drove their vehicle in a rash and negligent manner and caused the accident. Hence the driver of the two wheeler sustained injuries and the pillion rider Priya succumbed to injuries. The fifth respondent auto came in a high speed and dashed against the said priya and caused her death. Hence the fact that the first respondent is responsible for the accident is denied. The averments regarding the education, avocation and other things about the deceased and injured are all false.



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The amount claimed is excessive and hence, the claim petition has to be dismissed.

5.The averments in the counter filed by the fourth respondent is as follows:

The averments other than which are accepted are to be proved as per law and they are not acceptable. This respondent is not responsible for the accident. The case was registered only against the first respondent driver. Further the deceased in this claim petition has no employment. The compensation claimed under different heads are excessive and they have to be proved in the manner known to law and prayed for dismissal of the claim petition.

6.The averments in the counter of sixth respondent therein is as follows:

The averments other than which are accepted are to be proved as per law and not acceptable to this respondent. There is no fault on the fifth respondent driver and hence the sixth respondent is not responsible for payment of any compensation to the claimants. The facts about the legal heirs of the deceased are not true. The averments regarding the education, avocation are not true and that has to be proved in the manner known to law. Further the claim of compensation



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under different heads are excessive. The claimants are only eligible for 6% interest, if any award is ordered by the Tribunal. Hence this respondent prayed for the dismissal of the claim petition.

7. On joint trial in M.C.O.P.Nos.3 and 4 of 2020, on the side of the claimants, P.W.1 was examined and Ex.P1 to P21 were marked. On the side of the respondents, One Balamurugan was examined as R.W.1 and no document was marked. On appreciation of evidence both oral and documentary, the Tribunal awarded a sum of Rs.,38,90,064/- as compensation in M.C.O.P.No.3 of 2020 and awarded a sum of Rs.25,000/- in M.C.O.P.No.4 of 2020 with interest at the rate of 7.5% p.a. Against the award made in M.C.O.P.No.3 of 2020, this Civil Miscellaneous Appeal is filed.

8. The learned counsel for the appellant would submit that there are three vehicles involved in the accident whereas the tribunal fixed the liability only against the van driver insured with the appellant. Therefore the Tribunal had erroneously fixed the liability on the van driver alone whereas the driver of the two wheeler also contributed to the accident and also the auto came behind the



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two wheeler and due to their negligence contributed to the accident. The tribunal failed to take into consideration the negligence of the two wheeler and auto. If the driver of the two wheeler is cautious, he could avoid the accident. Though the driver of the van contributed to the accident, driver of the two wheeler and auto also contributed to the cause of the accident, which fact was omitted to be taken into consideration by the Tribunal. Further the learned counsel for the appellant would further submit that the case registered against he driver of the van ended in acquittal. Further this is a case of head on collision. Therefore the driver of both the two wheeler and van has contributed to the cause of the accident and the damage mentioned in the Motor Vehicle Inspectors Report is also not taken into consideration by the Tribunal.

9.The learned counsel for the 7th respondent would submit that there are two claim petitions, one is for fatal and another one is in respect of the injured. Now the appellant filed this appeal challenging the award passed in the fatal case and not challenged the award in the injured case. Once the appellant admitted the negligence and also liability in the claim petition filed by the injured, he cannot challenge only the fatal case regarding liability and negligence.



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10.The learned counsel for the claimants would submit that the rider of the two wheeler is an injured witness who is also the eye witness to the accident who has clearly spoken about the manner of accident, negligence on the part of the driver of the van and also a case was registered against the van driver in Crime No.211 of 2018 for the offence under Section 279, 337 and 304 IPC. If the driver of the two wheeler is responsible for the accident, the driver of the van should give complaint against the rider or the two wheeler. Since negligence is only on his part, he has not filed any complaint as against the driver of the two wheeler or against the auto driver. Further he has not challenged the liability fixed in the injured case. The appeal filed by the appellant has no merits.

11.Further the learned counsel for the appellant has also challenged the quantum and would submit that as per salary certificate marked as Exp14, which shows that at the time of accident the deceased was earning Rs.12,326/- p.m. However the Tribunal fixed the notional income at Rs.20,000/- which is highly exorbitant. Further though the claimants were awarded compensation under the head of loss of consortium. The tribunal has also awarded compensation under



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the head of loss of love and affection which is also against the settled proposition.

Therefore the award passed by the Tribunal is liable to be set aside and contributory negligence to be fixed on the driver of the auto as well as driver of the two wheeler.

12.The learned counsel for the claimants would submit that salary certificate of the deceased is issued only for her part time work and beyond that the deceased also doing other work and earning a considerable sum. Considering the above fact, the tribunal fixed the notional income and a reasonable award was passed which is just compensation and there is no merit in the appeal.

13.Heard the submissions of either side and perused the records.

14.Admittedly, the accident is not in dispute, however, the appellant only vehemently contended that negligence is only on the part of the driver of auto and driver of the two wheeler has also contributed negligence for the cause of the accident and that aspect has to be considered. However, a reading of the evidence of P.W.1 who is none other than the injured person in the accident and therefore



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the presence of P.W.1 is not denied. However on a perusal of rough sketch filed by the claimants which is marked as Ex.P6, the accident took place on the service road and adjacent to that there is four ways. Service road is on the left side. Therefore the van is supposed to go in the service road which is in the left side and the accident took place on the right side of the service road . The Van supposed not to go on that side which clearly shows that rider of the van went on the wrong side and therefore he cannot expect road users from other side vehicle come in the opposite direction and he has not examined any witness ie. Driver of the two wheeler who has also contributed his negligence and to show that the accident took place due to the rash and negligent driving of the driver of the two wheeler and that the appellant has not let in any contra evidence and produced any contra materials against the rough sketch and has not produced any materials to show that the service road in the right side was blocked and the service road in the left side was put in use and all the vehicles passing only through the service road in which the accident took place. Therefore in the absence of any contra evidence, the submission of the learned counsel for the appellant is not acceptable.



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15. Therefore on re-appreciating the evidence, this Court finds that the accident took place only due to the rash and negligent driving of the driver of the van insured with the appellant Insurance Company. The vehicle was insured with the appellant and the policy was also in force and therefore in these circumstances the tribunal has rightly fixed the liability on the appellant.

16. As far as quantum is concerned, Ex.P14 Salary certificate would show that the deceased was earning Rs.12,326/- at the time of accident and also doing other part time work and earned a considerable sum. Therefore the tribunal considering the evidence of P.W.1 fixed the notional income at Rs.20,000/-. The appellant has not produced any contra evidence to prove that the deceased never had any employment. Therefore the notional income fixed by the Tribunal is based on materials both oral and documentary. Therefore this Court does not find any perversity in fixing the monthly income of the deceased. However the Tribunal awarded compensation under the loss of consortium for three claimants at Rs.40,000/- each and also Rs.50,000/- each to all the three claimants under the head of loss of love and affection. Therefore the compensation awarded under the head of loss of love and affection is set aside and award under the head of loss of



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consortium is modified to the effect that the first claimant husband is entitled to Rs.40,000/- under the head loss of consortium and claimants 2 and 3 each are entitled to Rs.40,000/- each under the head of loss of love and affection. The award under the other heads and the rate of interest remains unaltered.

17. Accordingly, the claimants are entitled to compensation as follows:

S.No	Name of the heads	Awarded by the Tribunal	Awarded by this Court	Remarks
1	For loss of dependency and future prospects	Rs.35,84,064/-	Rs.35,84,064/-	same
2	For loss of estate	Rs.15,000/-	Rs.15,000/-	same
3	For funeral expenses	Rs.15,000/-	Rs.15,000/-	same
4	For loss of consortium to the first claimant-husband	Rs.1,20,000/-	Rs.40,000/- only to the husband	modified
5.	For loss of love affection	Rs.1,50,000/-	-----	Set aside
6.	For loss of love and affection to claimants 2 and 3		Rs.80,000/-	Newly awarded
7	For transport expenses	Rs.5,000/-	Rs.5000/-	Same



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8.	For loss of clothe and things	Rs.1000/-	Rs.1000/-	
9	Total	Rs.38,90,064	Rs.37,40,064/-	modified

18. In the result, the Civil Miscellaneous Appeal filed by the Insurance Company is dismissed and the award amount is modified from Rs.,38,90,064/- to Rs.37,40,064/- with interest at the rate of 7.5% p.a from the date of claim petition till the date of deposit. The appellant is directed to deposit the above said award amount with accrued interest and costs, less the award amount, if any already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the first claimant is entitled to a sum of Rs.7,40,064/- and the minor claimants 2 and 3 are each entitled to 15 lakhs each, with proportionate accrued interest and costs and the first claimant is permitted to withdraw the above said amount, less the award amount, if any already withdrawn. The Tribunal is directed to deposit the share of the minor claimants 2 and 3 in any one of the nationalized bank, initially for a period of three years renewable thereafter till the minors attain majority. The first claimant/father of the minor claimants is permitted to withdraw interest from the deposit of minors once in three months directly from the bank and utilize the



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same for the welfare of the children. No costs. Consequently, connected
Miscellaneous Petitions are closed.

[P.V.,J.] [L.V.G.,J.]
13.11.2025

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

The Judge,
Sub Court,
(The Motor Accidents Claims Tribunal)
Aruppukkottai.

Copy to

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



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

vsn

ORDER MADE IN
C.M.A(MD)No.925 of 2025
and
C.M.P(MD)Nos.14052 and 17306 of 2025

13.11.2025