IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2026

CORAM:

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 2626 of 2024

M/s. United India Insurance
Company Limited
situated at Aurobindo Road,
Neyveli,
Cuddalore District. ... Appellant/II Respondent

Vs

1. Varathammal
wife of Rengaraj

2. Devaki
wife of Gunasekaran

3. Minor. G.Bharath Kumar
son of Gunasekaran

4. Minor.G.Sivaranjani
Daughter of Gunasekaran

Both minors are represented
by their mother and next friend
Devaki. ... I-IV Respondents/I-IV Respondents

5. Elangovan
Son of Ramasamy ... V Respondent/ I Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V. Act, 1988 against the Decree and Judgment dated 23rd day of June 2022, passed in M.C.O.P.No. 314 of 2018, by the Hon'ble Motor Accidents Claims Tribunal (in the III Additional District Court), Villupuram @ Kallakurichi.

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For Appellant : Mr. J.Michael Visuvasam

For RR 1 & 2 : Mr. V.Gunasekar

JUDGMENT

The claimant in M.C.O.P. No. 314 of 2018 has filed the present appeal, aggrieved by the award of Rs. 83,23,729/- along with interest at 7.5% per annum, granted by the Motor Accident Claims Tribunal, III Additional District Court, Villupuram at Kallakurichi, by its award dated 23.06.2022, for the death of the deceased Gunasekaran in a road accident.

2. The necessity to file the claim petition arose due to the fact that on 05.07.2018 at about 9:20 a.m., while the deceased Gunasekaran was travelling on a motorcycle bearing Registration No. TN-31-AV-6918 from Veppur to Vridhachalam Highway, near Om Sakthi Construction on Veppur–Kattur Road, the 1st respondent's driver, who was driving the vehicle bearing Registration No. PY-01-BP-9456 (Innova car), drove the vehicle in a rash and negligent manner and dashed against the motorcycle from behind, thereby causing the death of Gunasekaran.

3. Seeking compensation for the death of Gunasekaran, his legal heirs preferred M.C.O.P. No. 314 of 2018 before the III Additional District Court, Villupuram at Kallakurichi.

4. The 2nd respondent/petitioner herein, United India Insurance Co. Ltd., Neyveli, filed a counter statement denying its liability to pay compensation or to indemnify the owner of the car for any award that may be granted. The respondent also disputed the income of the deceased and contended that the deceased himself was responsible for the accident.

5. On the basis of the rival pleadings, the parties were called upon to adduce evidence. During the trial, the claimant examined the 2nd petitioner/respondent herein as PW1 and marked the following documents: Ex.P1 – Photocopy of the FIR; Ex.P2 – Copy of the insurance policy of the

offending vehicle bearing Registration No. PY-01-BP-9456; Ex.P3 – Copy of the post-mortem certificate of the deceased; Ex.P4 – Copy of the driving licence of the 1st respondent's driver; Ex.P5 – Copies of the Income Tax Returns for the assessment years 2014–2015 to 2018–2019. Ex.P12 – Copy of the Certificate of Association in the name and style of M/s. Sri Andavar Agencies; Ex.P13 – Copy of the legal heir certificate of the deceased; Ex.P14 – Copy of the driving licence of the deceased;Ex.P15 and Ex.P16 Cancellation certificates of the registration of M/s. Sri Andavar Agencies.

6. On the basis of the available evidence, the Tribunal proceeded to determine the first issue and held that the accident occurred due to the rash and negligent driving of the Innova car bearing Registration No. PY-01-BP-9456, which dashed against the motorcycle from behind, resulting in the death of Gunasekaran. This finding was arrived at by relying upon Ex.P1, the copy of the FIR dated 05.07.2018, registered by the Veppur Police Station under Sections 279 and 337 of the IPC against the 1st respondent, the driver of the Innova car. We have also gone through the evidence and we are of the view that findings recorded regarding teh neglience is proper and there is no need to interfere withteh same.

7. The learned counsel for the appellant pointed out that the Tribunal had taken into consideration the income tax returns filed on behalf of the deceased and had taken the average of the income declared in the last three years income tax returns as the income of the deceased. However, the learned counsel further pointed out that income tax return in Ex.P-5 series reflect income tax return for the assessment years 2014-2015 to 2018-2019. All these income tax returns for the assessment years 2014-2015, 2015-2016 and 2016-2017 were filed on 08.02.2016 and the income tax returns for the assessment years 2017-2018 and 2018-2019 were filed on 09.10.2018 after the accident which had taken place on 05.08.2018 and after filing of the claim petition which was filed as seen from the decree on 30.08.2018. The learned counsel stated that the income tax returns filed after the death will have to be necessarily rejected.

8. We have also examined this particular argument advanced. Any statement filed after the death particularly relating to income and reflecting much higher income than the income declared in the previous years will always have to be looked as having been filed by the parties for enhancing

the claim.

9. We would therefore taking into consideration, the income as declared for the assessment year 2016-2017 which was a sum of Rs.3,17,084/- with respect to the compensation granted. On the other heads, we would grant one uniform of compensation for loss of consortium and loss of affection Rs.40,000/- x 4 = 1,60,000/- and for the funeral expenses at Rs.15,000/- and loss of estate at Rs.15,000/-.

10. The learned counsel for the respondent argued that the deceased died owing to head injury and the Tribunal had reduced 10% since he had not worn a helmet. We are of the opinion that since we have interfered with the award by determining the income of the deceased which had been fixed at Rs.6,92,843/- and had taken it as Rs.3,17,084/-, we would not burden the claimants further by reducing 10% owing to non wearing of the helmet. We are not inclined to deduct any amount in that regard.

11. In fine, the Appeal is partly allowed. No costs. The award is modified. The compensation award is determined at **Rs. 43,51,724/-** in the following manner:-

Age of the deceased at the time of accident	43 years
Multiplier with reference to the age of the deceased, as per Sarla Verma's case	14

Annual salary of the deceased	Rs. 3,17,084.00/-
Future Prospectus of the deceased (25% of the net annual salary income)	Rs. 79,271.00/-
Net income of the deceased (Rs.6,92,054 + Rs.1,73,054/-)	Rs. 3,96,355.00/-
¼ deduction towards personal and living expenses of the deceased (Rs.3,96,355/- - 99,089/-)	Rs. 2,97,266.00/-
Loss of dependency (Rs.2,97,266 x 14)	Rs. 41,61,724.00/-
Loss of Consortium (Rs.40,000 x 4)	Rs. 1,60,000.00/-
Funeral expenses	Rs. 15,000.00/-
Loss of Estate	Rs. 15,000.00/-
Total	Rs. 43,51,724.00/-

16. The appellant is directed to deposit the enhanced any further amount less the amount already deposited, if any, with interest at the rate of 7.5% per annum from the date of filing of the petition till date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn. If the appellant had already deposited more than the amount now determined, the appellant is entitled for refund of the difference amount. No order as to costs.

(C.V.K.,J.) (K.R.S.,J.)
04-03-2026

Index:Yes / No
Speaking / Non-Speaking order
vsg

To

III Additional District Court

Motor Accidents Claims Tribunal, Villupuram @ Kallakurichi.

C.V.KARTHIKEYAN, J.

vsg

CMA No. 2626 of 2024

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