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C.M.A.Nos.2642 of 2023 & 3078 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2026

CORAM

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.Nos.2642 of 2023 & 3078 of 2024

and

C.M.P.No.24403 of 2023 in C.M.A.No.2642 of 2023

C.M.A.No.2642 of 2023

The Manager,
The Oriental Insurance Company Limited,
Third Party Claim Hub,
New No.216, Old No.115,
Prakasam Salai, Broadway,
Chennai – 600 108.

... Appellant

vs

1.B.Kolanji
W/o.Bhuvaneswaran

2.B.Bhuvana
D/o.Bhuvaneswaran

3.Minor B.Anju
D/o.Bhuvaneswaran
[minor represented by Mother Guardian
and next friend B.Kolanji - R1]



C.M.A.Nos.2642 of 2023 & 3078 of 2024

4.Neelavathi
W/o.Govindasamy

5.S.Murugan
S/o.Singaravel

... Respondents

C.M.A.No.3078 of 2024

1.B.Kolanji
W/o.Bhuvaneswaran

2.B.Bhuvana
D/o.Bhuvaneswaran

3.Minor B.Anju
D/o.Bhuvaneswaran
[minor represented by Mother Guardian
and next friend B.Kolanji - A1]

4.Neelavathi
W/o.Govindasamy

... Appellants

VS

1.S.Murugan
S/o.Singaravel

2.The Manager,
The Oriental Insurance Company Limited,
Third Party Claim Hub,
New No.216, Old No.115,
Prakasam Salai, Broadway,
Chennai – 600 108.

... Respondents



C.M.A.Nos.2642 of 2023 & 3078 of 2024

Common Prayer: Civil Miscellaneous Appeals filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.519 of 2019 dated 23.12.2022 on the file of Motor Accident Claims Tribunal (I Additional District & Sessions Judge (FAC)), Cuddalore.

For Appellant in C.M.A.No.2642/2023
& for R2 in C.M.A.No.3078/2024 : Mr.J.Chandran

For R1 to R4 in C.M.A.No.2642/2023
& for appellants in C.M.A.No.3078/2024 : Ms.Ramya V. Rao

For R5 in C.M.A.No.2642/2023 : Mr.S.T.Raja

COMMON JUDGMENT

[Judgment of the Court was delivered by **C.V. KARTHIKEYAN, J**]

Both the appeals arise out of the award dated 23.12.2022 passed in M.C.O.P.No.519 of 2019 on the file of the Motor Accident Claims Tribunal/I Additional District and Sessions Court, Cuddalore.

2. The claimants have filed C.M.A.No.3078 of 2024 seeking enhancement of compensation and the Insurance Company has filed C.M.A.No.2642 of 2023 questioning their liability.



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3. The brief facts are that the claim petition had been filed seeking compensation for the death of one Bhuvaneswaran, who is said to have died in a road accident on 10.02.2019 when he was driving his TVS XL Super Moped bearing registration No.TN-07-R-3103 from K-Kallaiyankuppam to his home along Kurinjpadi to Bhuvanagiri road to the north of Adoor Agaram Paravanaru Bridge. He had overtaken the tractor of the first respondent bearing registration No.TN-32-U-7742. It is contended that the driver of the tractor drove it in a rash and negligent manner in a high speed and dashed against the moped of the deceased and the deceased fell down and the tractor ran over him, as a result of which he suffered fatal injuries. He was declared dead when he was taken to the Government Hospital at Kurinjpadi. The claimants are his wife, children and his mother. Claiming that they were his dependents, they claimed compensation of Rs.30,00,000/-.

4. The appellant in C.M.A.No.2642 of 2023/Insurance Company, in their counter affidavit, had stated that the Tractor bearing registration No.TN-32-U-7742 was not insured at the time of the accident. They also claimed that the driver of the Tractor had no valid and effective driving



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licence. It was also stated that the deceased did not possess a valid driving

licence. It was also contended that the TVS XL Super Moped was not insured at the time of the accident. The accident had occurred only on account of failure to observe road rules. They also questioned the quantum claimed by the claimants.

5. The Tribunal had framed the following points for determination:

- (i) on whose negligence the accident had occurred ?
- (ii) whether the respondents were liable to pay compensation ? and
- (iii) whether the claimants were entitled to receive compensation ?

6. During trial, the first respondent was examined as PW-1 and an eye witness was examined as PW-2 and Ex.P1 to Ex.P8 were marked. RW-1 and 2 were examined on the side of the appellant/insurance company. The owner of the Tractor/first respondent before the Tribunal remained *ex parte*.

7. The Tribunal, while examining the points framed for consideration, had given a finding that it was the driver of the Tractor/first respondent, who



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had driven his vehicle in a rash and negligent manner and had caused the accident and was responsible for the accident. It was also found that the second respondent was the insurer of the Tractor bearing registration No.TN-32-U-7742 and that the insurance was also valid for the period from 03.08.2018 to 02.08.2019. The accident had occurred on 10.02.2019. It was also found that the driver of the Tractor did not have valid driving license to drive the vehicle on the road. The Motor Vehicle Inspector-Grade I, Road Traffic Officer, Cuddalore, was examined as RW-1 and he tendered evidence on those lines.

8. The Tribunal, thereafter, examined about the allegation of violation of the terms and conditions of the insurance policy and also found that the first respondent, who was the owner of the tractor, did not have valid driving licence and had driven the tractor in a rash and negligent manner and had caused the accident. The Tribunal placed reliance on the judgment of this Court in ***Divisional Manager, United India Insurance Co. Ltd. v. M.Suresh and others [2020 (2) TN MAC 681]*** and the further judgment of this Court in ***Manager, Reliance General Insurance Co. Ltd. v. Thangamani John***



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Wesli (died) and another [2021 (1) TN MAC 696] and held that both the judgments had referred to the judgments of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Swaran Singh and ors. [2004 (1) TN MAC 104 (SC)]*** and ***Beli Ram v. Rajinder Kumar & another [2020 (2) TN MAC 445 (SC)]*** and held that the Motor Vehicle legislation is a beneficial legislation and had therefore directed the second respondent/Insurance Company to pay the compensation amount and to recover the same from the first respondent. Holding as above, the Tribunal had awarded a sum of Rs.21,09,000/- as compensation.

9. With respect to the compensation payable, the Tribunal had taken the monthly income of the deceased at Rs.12,000/-. The accident had occurred in the year 2019. Learned counsel for the appellants in C.M.A.No.3078 of 2024 urged that the monthly income should be revised by this Court and stated that an income of Rs.15,000/- should be taken into consideration since that is the normal notional monthly income granted for accidents occurring around the year 2019.



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10. Learned counsel for the appellant in C.M.A.No.2642 of 2023 very

strongly argued that the direction of the Tribunal to pay the compensation amount and to recover it from the first respondent should be set aside since the first respondent, who was the owner of the Tractor did not have a valid driving licence and was still plying the vehicle on the road. Learned counsel stated that though notice has been directed to the first respondent, he had taken a conscious decision to remain *ex parte*. In fact, notice had also been directed to produce his licence and that was also not complied with. Learned counsel, therefore, placed strong reliance on the judgment in **Beli Ram's** case [referred to supra] wherein, after referring to the judgment in **Swaran Singh's** case [referred to supra], the Hon'ble Supreme Court had held as follows:

“15. We are of the view that once the basic care of verifying the Driving Licence has to be taken by the Employer, though a detailed enquiry may not be necessary, the Owner of the vehicle would know the validity of the Driving Licence as is set out in the Licence itself. It cannot be said that thereafter he can wash his hands off the responsibility of not checking up whether the Driver has renewed the Licence. It is not a case where a Licence has not been renewed for a short period of time, say a month, as was considered in the case of **National Insurance Co. Ltd. v. Swaran Singh and ors., 2004 (1) TN MAC 104 (SC)**, where the benefit was given to a third party by burdening the Insurance Company. The Licence, in the instant case, has not been renewed for a period of three years and



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that too in respect of Commercial vehicle like a Truck. The Appellant showed gross negligence in verifying the same.

16. We are conscious of the fact that in the present case the beneficiary is the Driver himself who was negligent but then we are not dealing with a claim under the MV Act but under the Compensation Act, which provides for immediate succor, not really based on a Fault Theory with a limited Compensation as specified being paid. We are, thus, in the present proceedings not required to decide the share of the burden between the Appellant as the Owner and the First Respondent as the Driver as may happen in a proceeding under the MV Act.”

11. Learned counsel also placed reliance on the judgment of the learned Single Judge of this Court in *M.Suresh's* case [referred to supra] wherein, it had been held that when the insured is a tortfeasor and non-possession of valid driving licence has been proved by examining the Road Transport Officer, it would constitute violation of policy condition by the insured and hence, the direction to pay and recover should not have been granted. It was further argued that therefore, the insurer should not be mulcted with liability to pay the compensation.

12. We have carefully considered the submissions made by learned counsel for the appellant in C.M.A.No.2642 of 2023. We must point out that



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Beli Ram's case was not a claim under the Motor Vehicles Act but under the Workmen Compensation Act. The Hon'ble Supreme Court in **Swaran Singh's** case had given the conditions wherein the Insurance Company can be directed to pay compensation and recover it from the owner of the vehicle. This judgment of the Hon'ble Supreme Court had been subsequently followed by the Hon'ble Supreme Court in **Nirmala Kothari v. United India Insurance Co. Ltd. [2020 (1) TN MAC 395 (SC)]**. The relevant paragraphs are as follows:

“10. While the Insurer can certainly take the defence that the Licence of the Driver of the Car at the time of accident was invalid/fake however the onus of proving that the insured did not take adequate care and caution to verify the genuineness of the Licence or was guilty of willful breach of the conditions of the Insurance Policy or the Contract of Insurance lies on the Insurer.

11. The view taken by the National Commission that the law as settled in the PEPSU case is not applicable in the present matter as it related to Third-party claim is erroneous. It has been categorically held in the case of **National Insurance Co. Ltd. v. Swaran Singh & ors.**, SCC p.341, Para 110 that:

“110. (iii) ... Mere absence, fake or invalid Driving Licence or disqualification of the Driver for driving at the relevant time, are not in themselves defences available to the Insurer against either the insured or the Third parties. To avoid its liability towards the insured, the Insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the Policy regarding use of vehicles by a duly licenced Driver or one who was not disqualified to drive at the relevant time.””



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13. This principle had been consistently followed by this Court also.

One distinguishing factor from **Beli Ram's** case is that the issue in **Beli Ram's** case was an issue under the Workmen Compensation Act and not under the Motor Vehicles Act. Any claim under the Motor Vehicles Act is viewed from the angle of the claimants and directions have always been issued to the insurer to pay the compensation and recover it from the owner of the vehicle or from the tortfeasor. This fact had been pointed out in **Beli Ram's** case itself in paragraph No.16, which has been extracted supra.

14. Learned Single Judge in **M.Suresh's** case had considered the issue of fake license and therefore, stated that the insurer cannot be directed to bear the liability and thereafter, recover it from the owner of the vehicle or driver of the vehicle. Learned Single Judge had also admitted that the principles in **Swaran Singh's** case could be applied even in cases of invalid driving licence, fake driving licence or expired driving licence and could be applied on a case to case basis.



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15. In the instant case, we are bound by the dictum of the Hon'ble Supreme Court as laid down in ***Swaran Singh's*** case and subsequently reiterated in ***Nirmala Kothari's*** case [referred to supra]. We, therefore, do not accept the contention of the learned counsel for the appellant that the appellant insurance company therein should be completely exonerated from liability. Accordingly, C.M.A.No.2642 of 2023 stands dismissed.

16. With respect to the compensation claimed, the only issue is with the monthly income, which has been taken as Rs.12,000/- p.m. by the Tribunal. Learned counsel for the appellant in C.M.A.No.3078 of 2024 pointed out that the Courts have been consistently following the principle that for the year 2019, the notional income could be fixed at Rs.15,000/- p.m.

17. We have also consistently followed this principle and hence, the monthly income is revised from Rs.12,000/- to Rs.15,000/-. There are no arguments advanced on the compensation granted under the other heads. Taking this factor into consideration, the compensation payable under the



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head 'Loss of Income' is reworked as follows:

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Monthly Income	:	Rs. 15,000/-
Add: Future Prospects 25% of Rs.15,000/-	:	Rs. 3,750/-

		Rs. 18,750/-
Annual Income [18,750 * 12]	:	Rs. 2,25,000/-
Less: Personal expenses [2,25,000 * 1/4]	:	Rs. 56,250/-

		Rs. 1,68,750/-
Multiplier		x 14

Loss of income	:	Rs.23,62,500/-

18. The compensation of Rs.33,000/- awarded under the head 'funeral expenses and loss of estate' is cancelled, instead, a sum of Rs.16,500/- each under the heads 'funeral expenses' and 'loss of estate' is awarded. Since transportation expenses is included in the funeral expenses, the award of Rs.10,000/- granted under the head 'transportation charges' is cancelled.



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19. Accordingly, the modified compensation would be:

Sl. No.	Compensation awarded under the head	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of income	18,90,000/-	23,62,500/-
2.	Loss of Spousal Consortium	44,000/-	44,000/-
3.	Loss of Parental Consortium	88,000/-	88,000/-
4.	Loss of filial consortium	44,000/-	44,000/-
5.	Funeral expenses and loss of estate	33,000/-	-
6.	Transportation charges	10,000/-	-
7.	Loss of estate	-	16,500/-
8.	Funeral expenses	-	16,500/-
	Total	21,09,000/-	25,71,500/-

In the result,

- (i) C.M.A.No.2642 of 2023 is dismissed.
- (ii) C.M.A.No.3078 of 2024 is allowed. The compensation of **Rs.21,09,000/-** awarded by the Tribunal is hereby enhanced to **Rs.25,71,500/-**. The second respondent insurance company is directed to deposit the enhanced compensation of **Rs.25,71,500/-** (Rupees Twenty Five Lakhs Seventy One Thousand and Five Hundred only), less the amount already deposited, together with interest at



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7.5% p.a. from the date of petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. On such deposit being made by second respondent insurance company, the appellants/claimants are permitted to withdraw their respective share, as apportioned by the Tribunal, along with accrued interest and costs, less the amount, if any already withdrawn by them, by filing necessary application before the Tribunal.

No costs. Connected miscellaneous petition is closed.

[C.V.K., J] [K.R.S., J]
25.03.2026

Speaking order
Index: Yes
NCC:Yes
gm

To
The Motor Accident Claims Tribunal
(I Additional District & Sessions Judge (FAC)),
Cuddalore.



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C.M.A.Nos.2642 of 2023 & 3078 of 2024

C.V. KARTHIKEYAN, J

and

K.RAJASEKAR, J

gm

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25.03.2026