



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-06-2026

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THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 3774 of 2025

and

CMP No.31484 of 2025

and

Cross Objection No.13 of 2026

National Insurance Co. Ltd.,
No.66 1st Floor, Murugesan Complex ,
Greens Road, Chennai 600 006.

..Appellant(s)

Vs

1. P.Sasikumar
2. S Kalaiselvi
3. R Rubi
4. R Yovan Minor
5. R Mony

..Respondent(s)

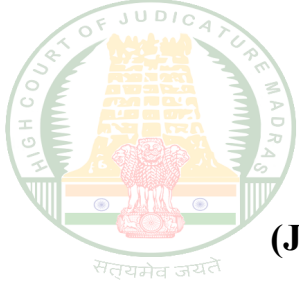
PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to allow the Civil Miscellaneous Appeal by setting aside the order dated 19-07-2024 in MCOP.No.6188 of 2019, on the file of the Chief Judge, Court of Small Causes MACT, Chennai and allow the above CMA.

For Appellant(s):

Mr.P.Sankaranarayanan

For Respondent(s):

MR.R.Mohan Babu for R1 to R4
Not ready in notice regarding R5



JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

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The second respondent in MCOP.No.6188 of 2019 aggrieved by an order dated 19.07.2024 passed by the MACT at Chennai/Court of Small Causes, Chennai, has filed the appeal questioning the liability and also quantum. The claimants have filed cross objection seeking enhancement of the compensation granted.

2.The brief facts as stated in the petition seeking compensation are as follows:

The deceased S.Rajkannan son of the first and second claimants and husband of the third claimant and father of the fourth claimant was riding a motor cycle bearing registration No.TN05 AX 7374 on 18.08.2017 at about 15.00 hours from L &T Company towards Chennai nearby Attipattu, Puthu Nagar opposite New Vasantha Bavan Hotel, and that a Lorry bearing registration No.TN 22 CD 5080 driven in a rash and negligent manner hit the motorcycle on the backside, consequent to which S.Rajkannan sustained grievous injuries and died on the spot. It was contended that the deceased was aged 22 years and was working in the company of his father, namely, M/s.Power Master Suppliers Proprietorship and was earning a sum of Rs.25,000/- per month. The first respondent is the owner and the second



respondent was the insurer of the offending vehicle. The claimants have filed a petition under Section 166 of the Motor Vehicles Act and sought compensation of Rs.45,00,000/-.

3.In the counter of the second respondent/appellant herein, the nature of the accident was denied and more significantly, the involvement of the Lorry bearing registration No.TN 22 CD 5080 was disputed and it was contended that the said vehicle was never involved in the accident at all. It was stated that the claimants have the burden to prove that the offending vehicle was the said Lorry.

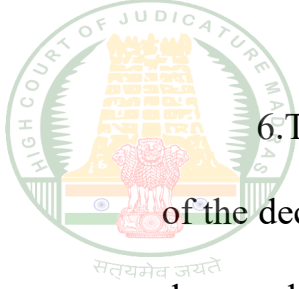
4.In view of the said contentions raised in the claim petition and in the counter affidavit, the Tribunal had framed the following issues for trial:

(i)Whether the accident had occurred due to the rash and negligent driving of the 1st respondent's vehicle?

(ii)Whether the respondents are liable to pay compensation?

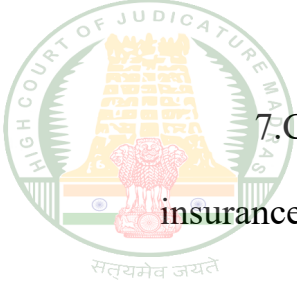
(iii)Whether the petitioners are entitled for compensation? If so, what is the quantum of compensation?

5.During trial, on the side of the claimants PW1 was examined and Exs.P1 to P22 were marked. On the side of the respondents, RW1 was examined and Exs.R1 & R2 were marked.



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6. The Tribunal on examination of the evidence adduced by PW1, father of the deceased noted that it was the evidence of PW1 that he was following the deceased in another motor cycle and directly saw the Lorry hitting the motor cycle driven by the deceased. PW1 further stated that immediately thereafter he went chasing the Lorry to a short distance and was able to note the name board of the Lorry and registration number. But the Lorry swerved away and thereafter, he came to the spot and lodged a complaint before the jurisdictional police. In the complaint, he had given the registration number of the Lorry. The Tribunal relied on this evidence and had stated that it is probable that the offending vehicle was the vehicle owned by the first respondent and insured by the second respondent. The contention of the appellant herein/second respondent before the Tribunal that the evidence of PW1 should be disregarded, particularly, because he had lodged the complaint about 4 ½ hours after the accident and also because the normal and natural reaction of a father who had seen his son being hit by a Lorry would have been to take care of his son rather than chasing of the Lorry was rejected by the Tribunal. Thereafter, the Tribunal proceeded to determine the compensation and though it was contended that the deceased was working in the company of his father, determined the monthly income at Rs.12,000/- and granted compensation under the other heads and determined the total compensation at Rs.29,21,600/-.

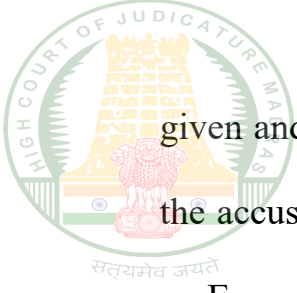


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7. Challenging the findings of the Tribunal regarding the liability of the insurance company, the appeal had been filed and questioning the quantum of compensation awarded, cross objection had been filed.

8. It is the contention of the learned counsel for the appellant that the evidence of PW1 should be disregarded, particularly, because it is improbable that he was following the deceased in another motor cycle and more improbable because after seeing the accident, he had not stopped to take care of his son, but rather proceeded to follow the Lorry. It was further contended by the learned counsel that PW1 was not able to stop the Lorry and had returned back after noting the name board and registration number. The learned counsel seriously disputed and questioned the veracity of the evidence of PW1. He further contended that the complaint was lodged after 4 ½ hours. In this connection, the learned counsel had placed reliance on the judgment of the Hon'ble Supreme Court in *Sithara N.S. & Ors. Etc Vs. Sai Ram General Insurance Company Limited* reported in 2025 INSC 1425, and contended that on similar facts, the Hon'ble Supreme Court had held that the involvement of the offending vehicle had not been proved in the manner known to law and therefore, absolved the insurance company from any liability.

9. Per contra, the learned counsel for the cross objectors/claimants contended that even in the FIR, the registration number of the Lorry had been

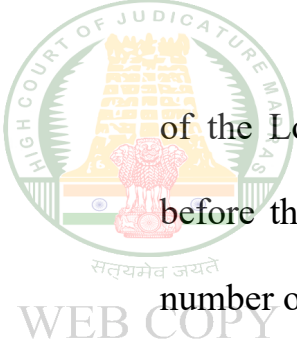


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given and subsequently after investigation, final report had been filed, wherein, the accused was the driver of the Lorry. He would also contend that PW1 was an Eye witness to the accident and there is no reason why the evidence should be disregarded. With respect to the notional monthly income determined, the learned counsel contended that it was very much on the lower scale, particularly since the deceased was working with his own father and was earning Rs.25,000/-. He contended that there should be an upward revision in the compensation to be granted to the claimants.

10.We have carefully considered arguments advanced and perused the material records. We would refer to the parties in the same litigative status as they were referred before the Trial Court.

11.The claim petition had been filed consequent to the death of S.Rajkannan, son of the first and second claimants, husband of the third claimant and father of the fourth claimant. He was aged about 22 years at the time of death. It is contended that he was driving a motor cycle bearing registration No.TN05 AX 7374 when he was hit from behind by a Lorry. The Lorry did not stop at the place. It is the case of the claimants/ first petitioner, PW1 that he was riding his motor cycle directly behind the motor cycle of his son/deceased and immediately when he saw the accident, he started chasing the Lorry and he tried to stop the vehicle. He was able to only note the name board



of the Lorry and the registration number. He thereafter lodged a complaint before the jurisdictional police and FIR was registered giving the registration number of the Lorry.

12. In the judgment relied on by the learned counsel for the appellant/ insurance company, the facts were that in which case also the offending Lorry was not identified at the time of accident and four witnesses had been examined on behalf of the claimants therein. PW1 had learnt about the accident from the police and also stated that he came to know the same from the witness. PW2 in that particular case had not witnessed the accident by himself. PW3 admitted that he did not know who caused the accident and PW4 admitted he did not know which was the offending vehicle involved. In that background, it was held as follows:

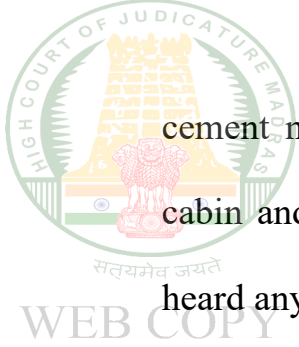
17) However, in the present case, the omission of the vehicle registration number in the complaint cannot be viewed in isolation, but in conjunction with other infirmities in the evidence. The complaint merely states that a vehicular accident occurred without identifying the offending vehicle. The spot mahazar was admittedly prepared several days after the accident. In absence of any eyewitness to the accident, there is nothing to indicate the basis upon which it was drawn up or whose statement formed its foundation.



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13. It had been stated that the vehicle's registration number was not stated in the complaint and in the complaint, it had only been stated that it was a vehicular accident without identifying the offending vehicle. The Mahazar had been prepared several days after the accident. There were no eye witnesses for the accident. On the basis of the evidence presented, the Hon'ble Supreme Court had stated that the insurance company cannot be mulcted with payment of compensation, particularly, when it is extremely improbable with the witness statement that the vehicle could have been identified.

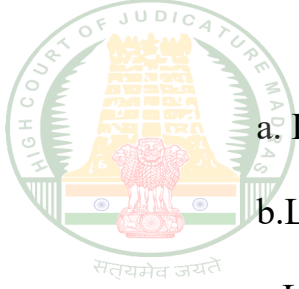
14. The facts in the present case are different. PW1 is a direct eye witness. He stated that he was driving the motor cycle behind the motor cycle of the deceased. It is to be noted that there could be two separate reactions when an accident occurs. (i) the offending vehicle if possible could have been stopped, (ii) to take care of the injured who suffered injuries in the accident. PW1 had tried to stop the vehicle but he could not. He thereafter noted the name board of the vehicle, noted the registration number of the vehicle and thereafter came back to the spot where the accident had occurred. It cannot be stated that this is an extremely unnatural reaction. He had thereafter lodged the complaint giving the registration number of the vehicle. In the FIR, registration number of the vehicle is given. The investigation officer had thereafter filed a final report again determining the accused as the Lorry driver who caused the accident. In the evidence of RW1, he had admitted that the Lorry was with



cement mixture which was a heavy vehicle and there was extra noise in the cabin and therefore, it could be concluded that he would not have noticed or heard any sound owing to the accident.

15.At any rate, RW1 Lorry driver had stated that he had driven the Lorry on the same road, on the same date, but that he has not caused the accident. The admission that he had driven the Lorry on the same date, on the same road and more or less on the same time probabalises that the Lorry was there at the time of accident and an enquiry was also made with him immediately after the accident, but he stated that he was not involved and he had gone away. We hold that to establish the liability of the insurance company as the insurer of the Lorry in a summary procedure, the evidence adduced is sufficient.

16.In view of these reasons, we hold that the Tribunal had come to the correct conclusion in determining the liability of the insurer. With respect to the quantum which is the subject matter of the cross objection, the Tribunal has fixed the notional income at Rs.12,000/- per month. The accident had taken place on 18.08.2017. This Court had consistently adopted notional income at Rs.17,000/- for the year 2017. The amount awarded under the head Transportation Charges including damages to personal belongings is deleted and the modified compensation is as hereunder:



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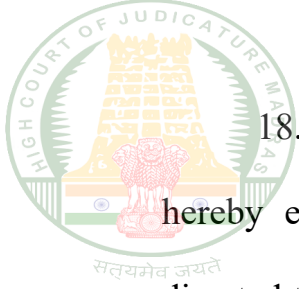
a. Loss of dependency **	: Rs. 38,55,600/-
b. Loss of consortium (40,000 x 4)	: Rs. 1,60,000/-
c. Loss of Estate	: Rs. 15,000/-
d. Funeral Expenses	: Rs. 15,000/-
Total Compensation	: Rs.40,45,600/-

** Monthly Income	: Rs. 17,000/-
Add: Future Prospects	
40% of Rs.17,000/-	: Rs. 6,800/-

	Rs. 23,800/-
Annual Income (Rs.23,800 x 12)	Rs. 2,85,600/-
Less: Personal expenses	: Rs. 71,400/-
[2,85,600*1/4]	-----
	Rs. 2,14,200/-
Multiplier	x 18

Loss of dependency	: Rs.38,55,600/-

17. It is pointed out by the learned counsel for the appellant that since in the decree the date of filing of the claim petition has been given as 02.01.2015, they had paid interest from that date on the Award amount. This date is not correct as the accident itself had occurred in the year 2017 and therefore, the interest will be from 22.11.2019, the date on which the claim petition was taken on record as found in the decree.



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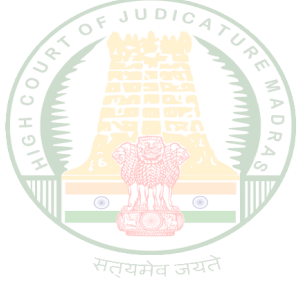
18. The compensation of **Rs.29,21,600/-** awarded by the Tribunal is hereby enhanced to **Rs.40,45,600/-**. The appellant Insurance Company is directed to deposit the enhanced compensation of **Rs.40,45,600/-** (Rupees Forty Lakhs Forty Five Thousand Six Hundred only), less the amount already deposited, together with interest at 7.5% p.a. from 22.11.2019 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 appellant Insurance Company, the claimants are permitted to withdraw their respective shares, as apportioned by Tribunal, along with accrued interest and costs, less the amount, if any already withdrawn by them, by filing necessary application before the Tribunal. Additional Court fees, if any, to be paid by the claimants on the enhanced compensation.

19. In the result, the Appeal is dismissed and the Cross objection is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(C.V.K.,J.) (K.R.S.,J.)
17-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SLI

To
The Chief Judge,
Court of Small Causes MACT,
Chennai.



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**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

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