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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**CMA No. 692 of 2018
and
CMP No.6014 of 2018**

United India Insurance Co.Ltd.,
Kumaran Road, Tiruppur.

Appellant(s)

Vs

1. K. Baskaran
- 2.K. Kannan(died)
- 3.K. Sankar
- 4.K. Subramani
- 5.S. Dhanabal
- 6.E. Senbagavalli
- 7.Madhumathi
- 8.Nirmalkumar

Respondents 6 to 8 brought on record as LRS
of the deceased R2 vide Court order dated 22.01.2025
made in CMP Nos.29328, 29332 & 29333 of 2024

Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and decree dated 16/06/2016 made in MCOP No 1081/2011 on the file of the MACT Addl Sub Court at Tiruppur.



For Appellant(s): Ms.I. Malar

For Respondent(s): Mr.T.Balaji Thirumoorthy
for R6 to R8
No appearance for R1 & R3
Notice Dispensed with
for R4& R5
(vide order dated 13.06.2018)
R2 Died (Steps taken)

JUDGMENT

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

This appeal has been filed by the United India Insurance Company challenging the Award dated 16.06.2016, passed by the the MACT Additional Sub Court at Tiruppur in MCOP No.1081 of 2011.

2.On 27.08.2004, when one K.Manivel/deceased, who was a Partner in Courier booking office, aged about 29 years, was proceeding in a Motor cycle, from North to South direction towards left extremity of Avinashi road near Bunglow stop, a vehicle bearing Reg. No.TAE 433 was driven by its driver rashly and negligently and dashed against the motorcycle driven by the deceased causing accident and consequently, death of the victim.

3.The claim petition was contested by the Insurance Company. However, the Tribunal held that the driver was rash and negligent and fixed the negligence on the part of the driver and awarded a sum of Rs.12,52,000/- as compensation.



4. Aggrieved by the quantum of compensation awarded by the Tribunal, this appeal has been filed by the Insurance Company.

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5. Heard Ms.I. Malar, learned Counsel appearing for the appellant and Mr.T.Balaji Thirumoorthy, learned counsel for R6 to R8.

6. The learned counsel for the appellant placed reliance on the observations of the Hon'ble Supreme Court in *Sarla Verma (SMT) and Others Vs. Delhi Transport Corporation and another* reported in (2009) 6 SCC 121, in paragraph No.31, wherein, it had been observed as follows:

Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

However, it is further contended that the claimants are the elder brothers of the deceased who died a Bachelor and the claimants are living separately and therefore, they cannot be stated to be dependants of the deceased. Hence, the learned counsel for the appellant sought modification of the Award granted by the Tribunal.



7. *Per contra*, the learned counsel for respondents would defend the Award passed by the Tribunal and submitted that the Award may be confirmed.

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8. This Court has considered the rival submissions and perused the material on record.

9. Though the learned counsel for the appellant submitted that the claimants are living separately and cannot be stated to be dependants on the deceased for their livelihood, this fact has not been stated in the counter affidavit before the Tribunal. This aspect has also not been put in cross examination during trial. There is no evidence to the contrary even in the grounds of appeal. It had been stated very vaguely and not specifically. In view of these facts, we are not inclined to concede to that point raised by the learned counsel for the appellant.

10. However, from a perusal of the Award of the Tribunal, it is seen that the future prospects of the deceased had been taken as 50%, which is on the higher side. In the light of the judgment of the Hon'ble Supreme Court in *Pranay Sethi's* case, we are inclined to fix the future prospects of the deceased at 40% and applying the same, the income of the deceased, taking his monthly income as Rs.6000/- would be, $\text{Rs.6000} + 40\% \text{ of Rs.6000/-} = \text{Rs.8400/-}$. Since the deceased was a Bachelor, deducting 50% towards 'Personal Expenses', the



total monthly income would be Rs.4200/-. Then, the annual income of the deceased comes to Rs.4200 x 12 = Rs.50,400/-. Since the deceased was aged 29 years at the time of accident, applying the appropriate multiplier, namely, 16, 'Loss of Income' would be Rs.8,06,400/-. The amount awarded towards ' Loss of Love and Affection' by the Tribunal is confirmed. The amount awarded towards 'funeral expenses' is reduced to Rs.15,000/- and a sum of Rs.15,000/- is awarded towards 'Loss of Estate'. Hence, the modified compensation works out as follows:

Loss of Income	::	Rs.8,04,600/-
Loss of Love & Affection	::	Rs. 75,000/-
Funeral Expenses	::	Rs. 15,000/-
Loss of Estate	::	Rs. 15,000/-
Loss of dependency	::	Rs.9,09,600/-

11.In the result, the Civil Miscellaneous Appeal is partly allowed. The compensation of **Rs.12,52,000/-** awarded by the Tribunal is hereby reduced to **Rs.9,09,600/-**. The appellant Insurance Company is directed to deposit the reduced compensation of **Rs.9,09,600/-** (Rupees Nine Lakhs Nine Thousand Six Hundred only), less the amount already deposited, together with interest at 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 appellant Insurance Company, the respondents/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. No costs. Connected miscellaneous petition is closed.

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

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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The MACT Additional Sub Court at Tiruppur.



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

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