IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.02.2026

Pronounced on : 10.04.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.1456 of 2025 and C.M.P. Nos.12568 and 26275 of 2025

M/s. Cholamandalam MS General Insurance Company Limited
"Dare House" II Floor,
No.2, N.S.C. Bose Road,
Chennai 600 001 …Appellant

Vs.

1.Kavitha
2.Ramesh
3.Vijay Akshay … Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, against the Award dated 04.03.2024 made in M.C.O.P No.688 of 2021 on the file of the Special District Court for Motor Accident Claims Cases, Krishnagiri.

For Appellant : Mr. J. Michael Visuvasam

For Respondents : Mr. C. Santhosh Kumar

JUDGMENT

This Appeal is directed against the Award dated 04.03.2024 made in M.C.O.P No.688 of 2021 on the file of the Special District Court for Motor Accident Claims Cases, Krishnagiri.

2. For the sake of convenience the parties are referred to as per their ranking in the Tribunal.

3. Shortly stated, on 09.04.2021, at about 02.00 hours, when the deceased Ruthick was proceeding in his Bajaj Pulsar two wheeler bearing Registration No. TN-70-AE-5855 from Ambur to his native place, on Krishnagiri to Hosur Road, near Melumalai Forest Area, an unknown vehicle hit behind the vehicle of the deceased and ran away from the scene of occurrence, due to which, the deceased sustained fatal injuries and died on the spot. Since the place of occurrence was the centre of forest area, there was no electrical lights and nobody has seen the occurrence. Some Truck drivers informed the police about the death of the deceased. The police officials obtained complaint from the deceased's father. Since the police officials were

unable to trace out the unknown vehicle, they obtained signature from the deceased's father, who does not know tamil, and created a false story as against the deceased. The Gurubarapalli Police have registered a case in Cr.No.75/2021 under Section 279 and 304(A) IPC as against the driver of unknown vehicle. The respondent is the insurer of the deceased's two wheeler and he paid compulsory personal accident owner cum driver premium. Hence, the petitioners who are the parents and brother of the deceased, filed the above Claim petition seeking compensation of Rs.30,00,000/- with interest at the rate of 12% per annum from the date of accident and for costs.

4. The claim was opposed by the respondent / Insurance Company by stating that since the claim being that of the death of owner/insured, the alleged question of insurer being liable does not arise at all and that the petitioners, who claim compensation for the death of the deceased,who is the owner of the two wheeler involved in the accident, have to present the claim form for compensation before the respondent in person by not pressing the claim petition. It is further stated that, since it is alleged that the deceased was the owner of Bajaj Pulsar two wheeler bearing Registration No.TN-70-AE-5855, the risk to such a person is not required to be covered under Section

147 of Motor Vehicles Act, 1988. Hence, prayed to dismiss the claim petition.

5. The Claims Tribunal framed necessary issues and came to the conclusion that, as per Ex.P5, which is a package policy, the deceased had paid premium towards personal accident coverage and the sum assured is Rs.15,00,000/- and hence the respondent is liable to pay a sum of Rs.15,00,000/- to the petitioners together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation.

6. Aggrieved by this, the Insurance Company is on appeal. According to the learned counsel for the Insurance Company, the Tribunal ought not to have entertained the claim for the death of the deceased who was the owner of the motorcycle, contrary to the provisions of Section 147 of the Motor Vehicles Act and that the Tribunal ought to have relegated the petitioners to the appropriate forum in respect of the claim arising under the 'Personal Accident Coverage' being a contractual liability. He further submitted that the deceased had only a Learner's License, which specifically prohibits the 'learner' from driving any motor vehicle unless he has besides him a person duly licenced to drive the vehicle, and as such he was not entitled to any compensation even

under 'Personal Accident Coverage'. He would further submit that the Tribunal erred in granting interest at the rate of 7.5% per annum when the contract does not envisages any interest for 'Personal Accident Cover' and that the Award of the Tribunal is in excess of its jurisdiction and also contrary to the terms and conditions of the contract of Insurance. The learned counsel would submit that the owner cum insured cannot approach the Motor Accident Claims Tribunal by filing a Claim Petition under Section 163(A) of the Motor Vehicles Act, 1988 for the injuries sustained by him relying upon the personal accident cover. This does not prevent the owner of the vehicle, who has taken the personal accident cover, from claiming compensation from his insurer. However, the Claims Tribunal is not the forum, before which he can make his claim, as he is not a third party. It is open to the owner of the vehicle to directly approach the insurer on the basis of the personal accident cover. In case, the Insurance Company fails to compensate him, it is well open to him to approach the Consumer Forum or any other appropriate forum. In support of his contention he has relied upon the judgment of this Court in the case of ***Tata AIG General Insurance Company Limited vs. Shanmugam*** reported in ***2024 (2) TN MAC 305 (DB)***. Hence, prays for setting aside the Award passed by the Tribunal.

7. *Per contra,* the learned counsel appearing for the respondents/petitioners relying on the judgment of the Hon'ble Supreme Court in the case of ***Manjusha and others vs. United India Assurance Company Limited and another*** reported in ***2025 SCC Online SC 1512*** would submit that, the ground of limited liability was not raised by the Insurance Company before the Tribunal and hence the same has to be dismissed. His further contention is that the Hon'ble Supreme Court in its order dated 01.08.2025 in SLP (Civil) Nos 15447-48 of 2024 (***Wakis Afrin (Minor) vs. National Insurance Co. Ltd.)*** opined that the issue concerning the liability of the insurer in a claim under Section 163A *qua* the owner / insured requires an authoritative pronouncement since there was a conflicting decisions by Coordinate Benches of two judges and directed the Registry to place the same before the larger Bench for appropriate orders. Therefore, the principles laid down in the judgment cited on the side of the learned counsel for the appellant cannot be applied.

8. Heard on both sides. Records perused.

9.It is not in dispute that the deceased Ruthick was the owner of the motorcycle bearing Registration No. TN-70-AE-5855 and when he was proceeding near Melumalai Forest Area, he was hit by an unknown vehicle. Due to the said impact, the deceased fell down and sustained fatal injuries and died on the spot. The parents of the deceased have filed a claim petition in MCOP No.688 of 2021 on the file of the Special District Court for Motor Accident Claims Cases, Krishnagiri, under Section 163A of the Motor Vehicles Act, claiming compensation of Rs.30,00,000/- with interest. The Tribunal has awarded a sum of Rs.15,00,000/- to the petitioners together with interest at the rate of 7.5% per annum from the date of claim petition till the dated of deposit. Aggrieved by this, the present appeal has been filed by the Insurance Company. The specific contention of the learned counsel for the appellant / Insurance Company is that the Tribunal ought not to have entertained the claim petition since it is contrary to the provisions of Section 147 of the Motor Vehicles Act, 1988,and the petitioners ought to have been relegated to the appropriate forum in respect of the claim arising under the personal accident coverage being a contractual liablity. Admittedly, the Hon'ble Supreme Court has referred the issue as to whether the legalheirs of the vehicle owners, who died in accidents, can be allowed compensation under 'no fault liability' provisions (Section 163A of the Motor Vehicles Act, 1988) or if such claims are limited solely to third party liability. This Court in the case of ***Tata AIG General Insurance Company Limited vs. Shanmugam*** (cited supra) has held that the owner / insured, not being a third party, is not entitled to claim compensation under Section 163A of the Motor Vehicles Act, 1988, before the Motor Accident Claims Tribunal for the injuries sustained by him relying upon the personal accident coverage and the said principles laid down in that case is squarely applicable to the case on hand. Therefore, the owner/insured or the legal heirs of the deceased owner cannot approach the Motor Accident Claims Tribunal by filing a petition under 163A of the MV Act, for the injuries / death, relying upon the personal accident cover. However, they can approach the insurer on the basis of personal accident cover. In case the Insurance Company fails to compensate the claimants, it is well open to them to approach the consumer forum or any other appropriate forum as observed in the above cited case. Further, in the Judgment in the case of ***Manjusha and others vs. United India Assurance Company Limited and another*** (cited supra) relied on by the learned counsel for the respondents/petitioners, the plea of limited liability was neither raised before the Tribunal nor in the Memorandum of Appeal and hence, the Hon'ble

Supreme Court allowed the appeal preferred by the claimants. But, in the case on hand, the Insurance Company has raised the question of limited liability in the Memorandum of Appeal. Hence, the said decision is not applicable to the facts of the present case.

10. In view of the above discussions, the present Civil Miscellaneous Appeal is allowed. No costs. Consequently connected miscellaneous petitions are closed. The Award dated 04.03.2024 made in M.C.O.P No.688 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri, is set aside. It is open to the respondents/petitioners to directly approach the insurer on the basis of the personal accident cover. In case, the Insurance Company fails to compensate them, it is well open to them to approach the Consumer Forum or any other appropriate forum.

10.04.2026

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Internet:Yes/No
Index:Yes/No
Speaking/Non-speaking order

K.GOVINDARAJAN THILAKAVADI, J.

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To

The Special District Court for Motor Accident Claims Cases,

Krishnagiri.

Pre delivery Judgment in
C.M.A.No.1456 of 2025 and
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