



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-01-2026

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**THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

CMA No. 2744 of 2025 & CMP No.23267 of 2025

The Divisional Manager
TATA AIG General Insurance Co.Ltd.,
Nicholas Pirmal Towers, IX Floor,
Peninsula Corporate Park, Ganapat Rao
Kadam Marg, Lower Parel, Mumbai.

Appellant(s)

Vs

1. M. Palanivel
2.P. Pushpalatha
3.P. Mala
4.The Branch Manager
M/s. United India Insurance Co.Ltd.,
No.96, Big Street, Tiruvannamalai
Town and Taluk and Dt.

Respondent(s)

PRAYER:Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgement dated 30th January 2025 passed in MCOP No.607 of 2022 by the Honble Motor Accidents Claims Tribunal (Principal District Court) at Tiruvannamalai.

For Appellant(s): Mr.J.Michael Visuvasam

For Respondent(s): Mr.Rajasekaran for R1 and R2
Mr.V.Achuthanandan for R3
M.Krishnamoorthy for R4

JUDGMENT

(Judgment delivered by **N.Sathish Kumar J.**)

Challenging the award dated 30.01.2025 made in MCOP.No.607 of 2022 on the file of the Motor Accident Claims Tribunal (Principal District Court) Tiruvannamalai, the present appeal has been filed. The appellant herein is the



insurer of the offending vehicle and the third respondent is the owner of the offending vehicle. The fourth respondent is the insurer of the deceased. The respondents 1 and 2 are the claimants.

2. For the sake of convenience, the parties referred to hereunder are as per their own ranking before the Tribunal.

3. Brief facts in filing the appeal is as follows:-

3.a. On 13.01.2018 at about 19.30 hours, the deceased was seated as pillion rider driven by one Jeeva in a two wheeler bearing Reg.No.TN-32-AL-7188 and while they were going on Tirukoilur Road in Then Pennai River bridge, the rider of motor cycle bearing Reg.No.TN-32-AK-5952 driving in a rash and negligent manner and while overtaking the vehicle travelled by the deceased dashed the vehicle, as a result, the deceased fell down on the road and sustained multiple fractures on frontal and parietal and temporal region of head, injuries on right knee, right foot, left foot and injuries all over the body. Hence, he was taken to Government Hospital Tirukoilur and then to JIPMER, Puducherry and then to Rajiiv Gandhi Government General Hospital, Chennai and then, died on 31.01.2018 at the hospital. The Sub Inspector of Police, Arakandanallur Police Station registered a case in Cr.No.75/2018 under Sections 279, 337 and 304(A) of IPC. The vehicle bearing Reg.No.TN-32-AL-7188 is owned by the deceased and is insured with the third respondent



herein under valid policy. Hence, the petitioners/claimants have filed the petition claiming compensation.

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3.b. It is the contention of the first respondent owner of the offending vehicle is that one Karthi, son of the first respondent and Vinith, S/o.Viji were going on a two wheeler on Daphovanam Thenpannai river overpass, when the deceased Tamilselvan and Jeeva came behind them in a two wheeler in a rash and negligent manner and overtook the first respondent, hit and fell down and the rider of the first respondent vehicle did not ride the two wheeler in a rash and negligent manner or in violation of road traffic rules.

3.c.It is the contention of the Insurance Company before the Tribunal that the rider of the motor cycle bearing Reg.No.TN-32-AK-5952 was not having valid, effective and proper driving licence to drive the motor cycle, ehene, there is a violation of conditions of policy. Further, there is an inordinate delay of more than 18 days in lodging the complaint before the police, in FIR, different story was given and later the offending vehicle has been included in the final report.

3.d. It is the contention of the third respondent that the deceased did not have valid license to drive the motor cycle and since the offending vehicle has driven in a rash and negligent manner, claim against the third respondent has to be dismissed..

3.e. The Tribunal considering the rival submissions framed the following issues for consideration:-



1. Who is responsible for the accident?

2. Who is liable to pay compensation to the petitioners?

3. Whether the petitioners are entitled to compensation? If so, what is the quantum?

3.f. Before the Tribunal, on the side of the claimants, PW1 and PW2/ocular witness were examined and Exs.P1 to P12 were marked. On the side of the second respondent, one Ravi, Sub Inspector of Police, Arakandanallur Police Station was examined as RW1 and S.Mohana Krishnan, Manager of TATA AIR Insurance Co.Ltd was examined as RW2 and Exs.R1 to R4 were marked.

3.g. Based on the material and evidences, the Trial Court considering the evidences of PW1 and PW2, eye witness has come to the conclusion that the accident took place due to the rash and negligent driving of the rider of the offending vehicle and awarded the compensation as follows:-

Sl.No.	Heads	Calculation
1	Loss of Income	Rs.22,68,000/-
2	Loss of consortium	Rs.40,000/-
3	Loss of estate	Rs.15,000/-
4	Funeral expenses	Rs.15,000/-
5	Additional amount of conventional heads (10% on the conventional heads-increased from 31.10.2017 as per the judgment reported in 2009 (3) R.C.R. (Civil) 77)	Rs.7,700/-



Sl.No.	Heads	Calculation
6	Additional amount of conventional heads (10% on the conventional heads-increased once in 3 years as per the judgment reported in 2009 (3) R.C.R. (Civil) 77)	Rs.7,700/-
Total compensation is fixed at		Rs.23,52,700/-

3.h. The Trial Court while awarding the compensation also granted liberty to recover the same from the first respondent/owner of the offending vehicle.

4. Challenging the award passed by the Tribunal, the insurer of the offending vehicle has preferred the instant civil miscellaneous appeal.

5. The only contention of the Insurance Company is that the first respondent's vehicle has been substituted in the final report. Ex.P1/FIR lodged by the father of the deceased clearly indicate that the rider of the vehicle himself hit the motorcycle against the wall of the bridge, therefore, when the father himself has given such statement and later including the motor cycle of the first respondent is only to accommodate the claimants to claim the compensation. To buttress such submission, he submitted that since the deceased or the rider of the vehicle did not have valid driving licence and insurance, the first respondent vehicle has been included in the final report.



6. The learned counsel for the respondents 1 and 2/claimants would submit that though the father has given FIR as if the vehicle dashed against the wall, the fact remains that father was all along in the hospital for 18 days with the deceased and later the FIR has been lodged by the father of the deceased. Exs.P9 and P10/Accident Register Copies clearly shows the nature of accident and involvement of two vehicles, therefore, merely because mistakes crept in the FIR by the deceased father who was all along with his son in the hospital that cannot be taken as gospel truth, whereas, in the investigation, it is clearly established that the first respondent vehicle is involved and the same is also proved by the PW2/ocular witness. Further, no contra evidence is produced by the Insurance Company.

7. In light of the above, now the following point arise for consideration

(i) whether the first respondent vehicle is involved in accident or same has been planted later?

Point (i)

8. The main contention of the Insurance Company is that since the FIR lodged by the father of the deceased contains different story and since the rider of the vehicle bearing No.TN-32-AL-7188 did not have valid driving license and insurance, later the first respondent vehicle has been included and further the deceased is also the owner of the vehicle, therefore, only for that purpose the vehicle of the first respondent has been substituted.



9. The main submission is based on the FIR under Ex.P1. No doubt, Ex.P1 which is lodged by the father of the deceased has stated as if the vehicle bearing No.TN-32-AL-7188 dashed against the wall which resulted in death of his son. It is relevant to note that FIR has been registered after 18 days of the accident. It is also the evidence that deceased father was all along in the hospital until the death of the son, later FIR has been lodged. Be that as it may, FIR is not an encyclopaedia. PW1, who lodged the FIR is not an eye-witness, whereas, PW2, the ocular witness has clearly deposed about the nature of accident caused by the offending vehicle. Though, it is the contention of the Insurance Company that the offending vehicle is not involved, they have not summoned any of the witness like rider of the so-called vehicle TN 32 AK 5952 or the pillion rider.

10. Though it is their contention that investigation was not properly done, it is relevant to note that investigation is done and final report is filed, merely, because on the basis of discrepancy found in the FIR, the same cannot be a ground to disregard the entire evidence. As long as the insurance company has not taken any steps to examine either the rider or pillion rider of the offending vehicle, we tend to believe the claimants case for the simple reason that immediately, after the accident occurred, the deceased was taken to the Government Hospital, Tirukoilur, the Accident Register Copy would clearly indicate the involvement about two vehicles at the relevant point of time. The



deceased was brought to the hospital by one Sathyanarayanan, there was no need whatsoever for the said Sathyanarayanan to give false report to the Doctor at the earlier point of time. Therefore, merely, there was a discrepancy in the FIR which was registered later after the death of son lodged by PW1, that cannot be taken advantage by the Insurance Company, particularly, in the absence of the any other evidence. PW2 has clearly spoken about the nature of accident and he was also examined by the Investigating Officer and cited as eye-witness and earlier document, Exs.P9 and P10/Accident Register copies clearly shows that two vehicles were involved, therefore, the contention of the Insurance Company that no other vehicle is involved in the accident cannot be countenanced. As the appeal is mainly on that ground alone and with regard to the quantum, there is no submissions put forth by the learned counsel for the appellant, therefore, the award passed by the Trial Court is confirmed.

11. Though it is the contention of the learned counsel for the third respondent that rider of the offending vehicle had valid driving license and the same is marked as Ex.P6 before the Trial Court, it is relevant to note that the accident took place on 13.01.2018, on that date, he did not have valid driving license, whereas, Ex.P6 filed before the Trial Court indicate that he obtained the license only on 17.05.2018 after five months of accident, therefore, on the date of accident, the rider did not have valid driving license. Hence, the order of Trial Court granting liberty to recover the compensation amount from the first



respondent by the Insurance Company also does not require any interference.

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12. In fine, this Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 30.01.2025 made in M.C.O.P.No.607 of 2022 on the Motor Accident Claims Tribunal (Principal District Court) Tiruvannamalai is confirmed. No costs. Consequently, connected miscellaneous petition stands closed.

(N.SATHISH KUMAR J.)(R.SAKTHIVEL J.)
28-01-2026

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



CMA No. 2744 of 2025



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The Principal District Judge
Motor Accident Claims Tribunal Judge
Tiruvannamalai



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