IN THE HIGH COURT OF JUDICATURE AT MADRAS

| RESERVED ON 10.12.2025 | PRONOUNCED ON 28.01.2026 |
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CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN**
**AND**
**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**CMA No.22 of 2022**
**and**
**C.M.P.No.169 of 2022**

M/s.United India Insurance Co., Ltd.,
No.178, First Floor,
Dr.Nanjappa Road, Coimbatore.

Appellant(s)

Vs

1.Anitha, 33 years
W/o.Late Rajendran

2.Minor Sarvesh, 7 years
S/o. Late Rajendran

3.Minor Sreejith, 3 years,
S/o.Late Rajendran
(Minors 2 & 3 are represented by their mother Anitha)

4.Nanjappan
C/o.Manimekalai

5.Manimekalai
W/o.Rajendran

Respondent(s)

**Prayer:**

Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment passed in M.C.O.P.No.137 of 2010 on 02.01.2019 on the file of the Learned Motor Accident Claims Tribunal / Sub Court, Udumalpet and be pleased to dismiss the above claim and allow the CMA.

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| For Appellant(s): | | Mr.S.Arun Kumar |
| For RR1 to 3 | : | Mr.K.Govi Ganesan |
| For RR4 & 5 | : | Not ready in notice |

**COMMON JUDGMENT**

**(Judgment of the Court was made by K.KUMARESH BABU. J.)**

The above Civil Miscellaneous Appeal has been made against the award and decree dated 02.01.2019 made in the M.C.O.P.No.137 of 2010, on the file of the Motor Accident Claims Tribunal, Sub Court, Udumalpet. Wherein the respondents 1 to 3 were the claimants

2. The facts giving rise to the present appeal are that the deceased, namely one Mr.S.Rajendran who was employed as a Machine Operator in Lakshmi Machine Works Ltd., and was also working as an LIC Agent, met with

a fatal accident on 24.01.2010, while he along with some others, had gone on a pilgrimage to the Palani Murugan Temple. On 24.01.2010, at about 10.00 p.m., while the deceased and others were returning from the pilgrimage and were walking slowly on the left side of the Udumalai–Pollachi Road, near the Udumalpet Reliance Petrol Bunk, proceeding from east to west, a TVS Suzuki motorcycle bearing a Registration No. TN-37-L-3537, driven by the 4th respondent, approached them from behind at an uncontrollable speed. The said motorcycle was driven in a rash and negligent manner, without due regard to road safety rules, and dashed against the deceased from behind. As a result of the collision the deceased sustained severe head injuries and injuries to vital parts of the body. The deceased was immediately taken to the hospital. However, he succumbed to the injuries on the same day, i.e., 24.01.2010

3. The 4th respondent was the driver of the offending vehicle, and the 5th respondent was the owner of the said vehicle. The appellant is the insurance company with which the offending vehicle was insured. The respondents 1 to 3 are the legal heirs of the deceased, of whom the 1st respondent is the wife, the respondents 2 and 3 are the children of the deceased.

4. The respondents 1 to 3 approached the Claims Tribunal, Udumalpet, and filed a claim petition in M.C.O.P.No.137 of 2010, seeking compensation of

Rs.50,00,000/- against the 4th and 5th respondents, along with the appellant of the present appeal. The Claims Tribunal, upon considering the oral and documentary evidence on record, *vide* its order dated 02.01.2019, had awarded compensation of Rs.44,97,720/- together with interest at the rate of 7.5% per annum, in favour of the respondents 1 to 3, and directed the 4th and 5th respondents along with the appellant to pay the said compensation either jointly or severally.

5. Heard Mr.S.Arun Kumar the learned counsel appearing on behalf of the Appellant and Mr.K.Govi.Ganesan the learned counsel appearing on behalf of the respondent 1 to 3.

6. Mr.S.Arun Kumar The learned counsel appearing for the Appellant would submit that the award passed by the learned Claims Tribunal is contrary to well settled principles of law and the weight of evidence on record. The Tribunal erred in fixing the income of the deceased at Rs.2,27,476/- per annum, whereas the deceased was admittedly earning only Rs.15,339/- per month from his employment in Lakshmi Machine Works Ltd. It is further contended that the Tribunal failed to consider that the deceased, being a full-time employee of Lakshmi Machine Works Ltd. (LMW Ltd.), was not permitted to function as an LIC Agent. He further submits that the said LIC agency held by the deceased

now stands in the name of the 1st respondent. The 1st respondent is presently continuing as an LIC Agent and is receiving the benefits therefrom. Hence, the said source of income has not been lost to the family. Consequently, the loss of dependency fixed at Rs.43,77,720/-, arrived at by including the income from the LIC agency of the deceased, is wholly unjustified.

7. Further placing reliance upon the principles laid down by the Hon'ble Apex Court in ***Sarla Verma's*** and ***Pranay Sethi's*** cases, he submits that only the actual salary received by the deceased from his employment in LMW Ltd., alone ought to have been taken into account for calculating the loss of dependency, as the income from LIC agency of the deceased is alleged to have continued to accrue in favour of the legal heirs of the deceased by way of hereditary commission. It is further submitted that the Tribunal failed to note that awarded amount with its interest in a long-term deposit would yield returns far exceeding the income earned by the deceased during his lifetime. Hence, the award is excessive and the reasons assigned are untenable. Therefore, in view of the aforesaid facts, he prays that this Court may be pleased to interfere with the award dated 02.01.2019 and allow the present Civil Miscellaneous Appeal

8. Countering his arguments Mr.K.Govi Ganesan appearing on behalf of the respondents 1 to 3 would submit that the 1st respondent is also an

independent LIC agent and is not continuing the agency left behind by the deceased. Hence the income received by the 1st respondent through her individual agency cannot be equated to the income received by the deceased through his agency. Further there has been no evidence produced from the appellant to substantiate their claim that the 1st respondent is still earning from the agency held by the deceased. Therefore he submits that the compensation granted by the Claims Tribunal is just and reasonable and it does not warrant any interference from this court and prays this court to dismiss this appeal.

9. We have considered the submissions made by the respective counsels and perused the materials on record.

10. The case of the appellant is that the Quantum of compensation awarded by the Claims Tribunal vide its award dated 02.01.2019 is excessive and unreasonable. The primordial contention made on behalf of the appellant is that, the income received by the deceased through his LIC agency should not have been considered for computing the Loss of dependency, as the agency of the deceased had been transferred to the name of the 1st respondent. Further the 1st respondent has been receiving the income through the LIC agency and therefore the income is not lost to the family. It is further contended that the deceased was not permitted to function as an LIC Agent, as he was already a

full-time employee of Lakshmi Machine Works Ltd. (LMW Ltd.).

11. However, from the evidence on record, especially the deposition made by one Mr.Saravanan marked as PW4, an employee of the LIC, Soolur Branch, who was authorized to depose on behalf of the LIC, it is evident that the deceased was appointed as an LIC Agent and continued as such from the year 2006 till 2010. During the cross-examination, PW4 categorically stated that only employees working in Government organisations are required to obtain prior consent from their higher authorities to function as LIC Agents, whereas no such prior permission or consent is required for the employees working in private companies. The aforesaid deposition clearly establishes that the deceased was lawfully functioning as an LIC Agent in addition to being a full-time employee of LMW Ltd.

12. Further the deposition made by PW4 during his cross examination clearly proves that the, 1st respondent, the wife of the deceased, currently holds a separate individual agency under her name but it is no way related to the LIC agency held by her husband, the deceased herein. PW4 further clarified that the name of the 1st respondent appeared in certain documents merely on account of her being a nominee and that, upon the death of the deceased, her name was automatically reflected therein. However, the agency number of the deceased

remained unchanged.

13. Considering the aforesaid facts and circumstances, this Court is of the view that the compensation awarded by the Claims Tribunal under the impugned award is just and reasonable and does not warrant any interference. Accordingly, the same is confirmed and accordingly, the Civil Miscellaneous Appeal stands dismissed. Consequently, all connected miscellaneous petitions are closed. There shall be no order as to costs.

**(C.V.K., J.)** **(K.B., J.)**
**28-01-2026**

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

To

1.The Motor Accident Claims Tribunal/
Sub Court, Udumalpet.32

2. The Section Officer,
VR Section, High Court,
Madras.

**C.V.KARTHIKEYAN, J.**

**and**
**K.KUMARESH BABU, J.**

Gba

**CMA No. 22 of 2022**
**and**
**C.M.P.No.169 of 2022**

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