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C.M.A.No.173 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2026

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

C.M.A.No.173 of 2026

&

C.M.P.No.2005 of 2026

The United India Insurance Co.Ltd.,
Represented by its Divisional Manager
Having Divisional Office at
TKM Complex, at Door No.46-51
3rd Floor, Katpadi Road
Vellore – 632 004

... Appellant/2nd respondent

Versus

1. Tmt.Vithya

G.Ravi (Died), S/o.Gopal

2. M/s.SVT Infra

No.1/150, Arcot Main Road
Puttuthaku, Walaja
Ranipet District – 632 513

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles

Act,1988 against the judgment and decree made in M.C.O.P.No.65 of 2021



C.M.A.No.173 of 2026

dated 19.02.2025 on the file of Motor Accidents Claims Tribunal, Principal Subordinate Court, Vellore.

For Petitioner : Ms.Harini
M/s.M.B.Gopalan Associates

JUDGMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

Challenging the award passed by the Motor Accident Claims Tribunal, Principal Subordinate Court, Vellore dated 19.02.2025 in M.C.O.P.No.65 of 2021, the present appeal has been filed by the Insurance Company.

2. The parties are referred to by their respective ranks before the Tribunal.

3. The following facts are necessary for disposal of this appeal:

On 10.05.2020 at about 04.30pm, the deceased, who was aged about 18 years, travelled in a lorry bearing Registration No.TN AB 3224 with his rice to deliver it to some other place. At that time, the driver of the lorry drove the vehicle in a rash and negligent manner due to which the lorry capsized and fell into the well and the deceased drowned in water. Hence,

2/10



C.M.A.No.173 of 2026

the parents of the deceased filed a claim petition, but subsequently second petitioner, who is the father of the deceased, died and the mother alone prosecuted the claim before the Tribunal.

4. The second respondent Insurance Company resisted the claim by filing counter affidavit. It was denied by the Insurance Company that the deceased was an agriculturist. It is the contention of the Insurance Company that the deceased was aged about only 17 years and was a student but he discontinued his studies even before the accident and was not earning any income. It is the further contention of the Insurance Company that at the time of accident, the vehicle was empty and therefore, the contention of the claimants that the deceased travelled in the vehicle as owner of goods is absolutely false and not based on any records. Further, the contention that the deceased travelled in the vehicle as a coolie cum owner of goods are contradictory statement. In the tipper lorry only three persons can travel, but four persons including the first respondent were in the vehicle at the time of accident and therefore, there is violation of policy conditions.

5. Based on the above pleadings following points were framed by the Tribunal for consideration:

- 1) Who is responsible for the accident?*
- 2) Whether the respondents are liable to pay compensation to*



C.M.A.No.173 of 2026

the petitioners? If so, which respondent is liable?

3) Whether the claimants are entitled for compensation, if so

what is the quantum of compensation amount?

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6. Before the Tribunal, on the side of the claimants, PW1 and PW2 were examined and Exs.P1 to P16 were marked and on the side of the respondents, RW1 and RW2 were examined and Exs.R1 and R2 were marked. One another document was marked as Ex.X1.

7. The Tribunal, after appreciation of oral and documentary evidence, found that the negligence is on the part of the lorry driver and awarded the compensation of Rs.23,50,000/- and the details of which are as follows:

1. Loss of Income	-	Rs.22,68,000.00
2. Towards parental consortium	-	Rs. 44,000.00
3. Transport Expenses	-	Rs. 5,000.00
4. Loss of Estates	-	Rs. 16,500.00
5. Funeral Expenses	-	Rs. 16,500.00

		Rs. 23,50,000.00

8. The Insurance Company has filed the instant appeal on the ground that there is no liability as there is contradiction between the statement given in the FIR and evidence of PW1 and the deceased never travelled as a owner



C.M.A.No.173 of 2026

of the goods and according to PW1, he travelled as a cleaner and only on that ground entire liability is sought to be avoided by the Insurance Company.

9. The main contention of the learned counsel for the appellant Insurance Company is that in the FIR the mother of the deceased never stated that the deceased was traveling along with the goods, but in the claim petition it is stated as if the deceased travelled along with the goods and in paragraph 23 of the claim petition it is averred that the deceased travelled in the vehicle as a coolie cum owner of goods and therefore, there are contradictory statements and they are not based on any records and hence, the liability cannot be fastened on the Insurance Company.

10. In the light of the above submission, now the point that arises for consideration is *“Whether is Insurance Company is liable to pay the compensation or not?”*

11. Admittedly, the accident is not in dispute. The offending lorry bearing Registration No.TN73 AB 3224 capsized in the well and the



C.M.A.No.173 of 2026

deceased drowned and died on the spot is also not in dispute. At the time of accident the deceased was aged only about 18 years is also not in dispute. It is contended by the learned counsel that the deceased was not earning any income.

12. Be that as it may, the fact remains that the lorry capsized, which itself clearly indicate that the driver drove the vehicle in a rash and negligent manner. It is the contention of the learned Counsel for appellant Insurance Company that there are contradictions in the FIR and the evidence of PW1 and that the policy does not cover gratuitous passenger.

13. It is relevant to note that though the deceased was a student, the accident had occurred in the month of May. Even in the FIR, PW1, the mother of the deceased, who is a rural women, has given the statement that during holidays the deceased along with others used to go in the vehicle but in the petition though it is pleaded as if the deceased travelled in the lorry along with the rice bags to deliver, but in her evidence PW1 stated that the deceased was working as a cleaner and therefore, he travelled in the vehicle as a cleaner. Though there are contradictory stand, the fact remains that the



C.M.A.No.173 of 2026

FIR cannot be treated as an encyclopedia and it need not contain all the minute details. A mother, who is in utter shock due to the death of his only son, is not expected to give all the details in the FIR. It is relevant to note that during holidays the students will go for part time jobs and going as a cleaner in the lorry is not against the normal practice prevailing in the villages. When the mother has clearly stated that her son travelled in the lorry as a cleaner and when there is no contrary evidence produced by the Insurance Company by examining the owner of the vehicle, the contention of the Insurance Company has to be negated.

14. Admittedly, the policy covers six persons. Therefore, when the policy itself covers six persons, whether the deceased travelled with the goods as an owner or as an acting cleaner will not make any difference. Hence, as long as the policy is in force which covers six persons and there is evidence to show that the deceased used to travel in the vehicle as a cleaner during college holidays, the Insurance Company is liable to pay the compensation. A student from rural background engaging in part-time job is quite natural in villages. Therefore, mere contradictions in the pleadings drafted by the lawyers in the field of MACT cases cannot be given much



C.M.A.No.173 of 2026

importance. In such view of the matter, the evidence of PW1, who is a rural woman, cannot be brushed aside. That apart, there is no contrary evidence adduced by the Insurance Company and merely on the basis of letter said to have been issued by the owner of the vehicle and driver, namely Exs.R1 and R2 respectively, the stand of the Insurance Company cannot be sustained for the simple reason that unless the author of so called letters are examined before Court of law and substantiated, Exs.R1 and R2 cannot be given much credence in the eye of law.

15. As far as the quantum of compensation is concerned, the Tribunal, considering the age of the deceased, has fixed only Rs.15,000/- per month as notional income and added 40% towards future prospects and the same cannot be found fault with. We do not find any merit in the appeal and the same is liable to be dismissed.

In the result this Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 19.02.2025 made in M.C.O.P.No.65 of 2021 by the Motor Accidents Claims Tribunal, Principal Subordinate Court, Vellore is confirmed. Appellant Insurance Company is directed to deposit the



C.M.A.No.173 of 2026

amount, less the amount already deposited within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

[N.S.K.,J.] [R.S.V.,J.]
30.01.2026

Index: Yes/No
Neutral Citation: Yes/No
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To

The Motor Accidents Claims Tribunal
Principal Subordinate Court, Vellore



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C.M.A.No.173 of 2026

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