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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11-11-2026**

Case QR

CORAM:

THE HON'BLE MR JUSTICE M.DHANDAPANI

AND

THE HON'BLE MR.JUSTICE KRISHNASWAMY GOVINDARAJAN

C.M.A.No.283 of 2024

CNR:{HCMA011631012023}

and C.M.P.No.3111 of 2024

M/s. United India Insurance Co Ltd
Chickpet Branch, 1st Floor, Lakshmi Complex,
No.40, K.R.Road, Fort, Bangalore 2 Implead as per
order in IA.14/2012, Dated 02.03.2012

..Appellant

Vs

1. Soundaraselvi, W/o Late Rajasekar

2. Minor Egalakaha, D/o Late Rajasekar

3. Minor Sunnath, S/o Late Rajasekar
   (RR 2 & 3 represented by Guardian and
   Mother Soundaraselvi)

   All are residing at No.4, Hanumantha
   Upasagarpettai, Thirupattur, Vellore District.

4. Bangalore Metro Transport Corporation
   Rep by Managing Director, Office at
   Bangalore, Karnataka State

..Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the award and decree dated 27.04.2023 made in M.C.O.P.No.482 of 2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thirupathur.

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For Appellant: Mr.S. Arun Kumar

For Respondents: Mr.P.Subbiah, Sr. Counsel
For Mr.Elizabeth Ravi For RR1 to 3

J U D G M E N T

(Judgment of the Court was delivered by M.Dhandapani J.)

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company under Section 173 of the Motor Vehicles Act, 1988, challenging the judgment and decree dated 27.04.2023 passed in M.C.O.P.No.482 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tirupathur, whereby the Tribunal awarded Rs.2,68,50,720/- as compensation with interest at 7.5% per annum.

2. It is pertinent to note that the matter was taken up on 02.11.2026, when this Court indicated that the appeal was liable to be allowed and the matter remanded for fresh consideration. However, certain clarifications arose while considering the draft judgment for signature, and the matter was listed under the caption “For Clarification” on 11.11.2026. Upon further consideration, this Court proceeds to dispose of the appeal on merits.

3. The respondents 1 to 3, the wife and children of deceased Rajasekar, filed M.C.O.P.No.482 of 2013 claiming Rs.3,00,00,000/- for his death in a road accident on 09.10.2009. According to the claimants, at about 6.45 p.m. on

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09.10.2009, Rajasekar was riding his motorcycle bearing Registration No.TN 70 5747 on the Attibele–Sarjapur Main Road when a bus bearing Registration No.KA 01 F 2759 belonging to Bangalore Metropolitan Transport Corporation, allegedly driven rashly and negligently, dashed against the motorcycle, whereby the said Rajasekar sustained fatal injuries. The claimants pleaded that he was aged about 41 years, gainfully employed, and supporting the family.

4. The claimants examined P.W.1 and P.W.2 and marked Exs.P1 to P34. On the side of the Insurance Company, R.W.1 to R.W.3 were examined and Exs.R1 to R6 were marked. The Tribunal held the bus driver negligent and fastened liability on the insurer, awarding Rs.2,68,50,720/- with interest. Aggrieved against the same, the Insurance Company preferred this appeal.

5. Learned counsel for the appellant/Insurance Company submitted that one Suresh lodged the complaint immediately after the accident, leading to registration of Crime No.204 of 2009 under Sections 279 and 304(A) of the Indian Penal Code and Section 187 of the Motor Vehicles Act. However, the investigating agency filed a final report stating that the offending vehicle could not be traced, as reflected in Exs.R1 and R2.

6. Learned counsel submitted that although the Insurance Company initially admitted the accident and involvement of the insured vehicle in its

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counter affidavit, it subsequently filed an additional counter disputing involvement after considering the police final report. Further, the Transport Corporation's communication dated 24.03.2018, marked as Ex.R3, stated that no such accident was recorded in its accident records. The Tribunal erred in disregarding these materials and fastening liability on the appellant.

7. Learned counsel further contended that the Tribunal adopted an inflated income without appropriate income-tax deductions and included allowances that ought not to have been included in determining loss of dependency. According to the learned counsel, the compensation awarded by the Tribunal requires reduction and hence, has preferred the present appeal warranting the interference of this Court.

8. Per contra, learned counsel for the claimants submitted that Exs.P1 and P2, the complaint and FIR, recorded involvement of the Transport Corporation bus. The police final report that the vehicle was not traceable was not conclusive proof of its non-involvement. P.W.2, an eyewitness, consistently identified the offending bus, including during cross-examination.

9. Learned counsel pointed out that the final report was filed on 28.10.2010, whereas the Insurance Company filed its first counter admitting involvement on 19.04.2014 and its subsequent counter denying involvement

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only on 28.05.2018. Thus, the first admission came long after the police final report. The insurance coverage was evidenced by Ex.P9 and related correspondence. Thus, the learned counsel for the claimants sought dismissal of the appeal and seek for the confirmation of the compensation.

10. Heard the learned counsel appearing on either side and perused the materials available on record.

11. The questions for consideration are whether the involvement of bus No.KA 01 F 2759 was established and whether the quantum requires interference.

12. One K. Suresh lodged a complaint naming the Transport Corporation vehicle, and the complaint and FIR were marked as Exs.P1 and P2. The police subsequently filed a final report dated 28.10.2010 stating that the vehicle could not be traced. The Transport Corporation did not effectively contest the claim before the Tribunal, and the insurer contested the proceedings. Significantly, the appellant's first counter affidavit dated 19.04.2014 admitted the accident and involvement of the insured vehicle, notwithstanding that the police final report had been filed on 28.10.2010. The later counter dated 28.05.2018 disputed involvement. Therefore, the contention of the appellant / Insurance Company that it became aware of the final report only subsequently, despite having filed

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its initial counter affidavit nearly four years after the submission of the said report, is wholly untenable and cannot be countenanced.

13. The Chief Traffic Manager (Operations) stated in Ex.R3 dated 24.03.2018 that no accident was entered in the Corporation's records. However, neither the insurer nor the Transport Corporation produced the relevant trip sheet or contemporaneous operational records showing movement of the bus on the particular date and route. Mere absence of an accident-register entry cannot conclusively establish non-involvement. Likewise, the police final report that the vehicle could not be traced is not conclusive proof of non-involvement. P.W.2 deposed as an eyewitness regarding involvement of the bus, and the Tribunal considered his testimony, including cross-examination. Ex.P9 was relied upon as evidence of insurance coverage of the vehicle concerned.

14. Further, it is pertinent to note that Ex.P9 is the bulk insurance policy issued by the appellant/Insurance Company in respect of the vehicles belonging to the Transport Corporation. The offending bus bearing Registration No.KA 01 F 2759 is also stated to have been covered under the said policy. Thus, the documentary evidence establishes the existence of insurance coverage in respect of the vehicle concerned. In such circumstances, particularly when the appellant/Insurance Company had initially admitted the involvement of the insured vehicle in its counter affidavit filed much after the submission of the

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final report by the law-enforcing agency, its subsequent denial of the involvement of the vehicle, merely relying upon Exs.R1 to R3, cannot be accepted. In these circumstances, this Court finds no ground to interfere with the Tribunal's finding as to involvement of the offending vehicle and the liability of the appellant/Insurance Company.

15. As regards the quantum of compensation, the Tribunal adopted the monthly income of the deceased at Rs.1,83,075/- based on the salary particulars. However, the Tribunal failed to make appropriate deductions towards income tax. Considering the age of the deceased as 41 years, this Court is inclined to adopt 30% towards future prospects and apply the multiplier of '14'. After deducting income tax and one-third towards personal and living expenses, and by awarding compensation under the conventional heads, this Court is inclined to modify the compensation as follows:

Sl.No.	Heads	Award *in Rs.*
1	Monthly Income	1,83,075/-
2	Future Prospects: Monthly Income + 30%	54,922.50/-
3	Total Monthly Income	2,37,997.50/-
4	Annual Income:(Monthly Income × 12)	28,55,970/-
5	Less: Income Tax	7,60,791/-
6	Annual Income after Tax	20,95,179/-
7	Less: 1/3rd towards Personal Expenses	6,98,393/-

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8	Annual Contribution to Family	13,96,786/-

Sl.No.	Heads	Award *in Rs.*
9	Loss of Dependency	1,95,55,004/-
10	Loss of Spousal Consortium	40,000/-
11	Loss of Parental Consortium (Rs.40,000/- each to two children)	80,000/-
12	Loss of Estate	15,000/-
13	Funeral Expenses	15,000/-
Total Compensation		**1,97,05,004/-**

16. Accordingly, the compensation awarded by the Tribunal is reduced from Rs.2,68,50,720/- to Rs.1,97,05,004/- (Rupees One Crore Ninety Seven Lakhs Five Thousand and Four only). The modified compensation shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, excluding any period for which interest was disallowed.

17. The Tribunal's Award of Rs.2,68,50,720/- is therefore reduced to Rs.1,97,05,004/-. The finding on liability is confirmed. The modified amount

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shall carry interest at 7.5% per annum from the date of claim petition until deposit, excluding any period for which interest was disallowed.

18. In the result, this Civil Miscellaneous Appeal is partly allowed. The judgment and decree dated 27.04.2023 in M.C.O.P.No.482 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tirupathur, are modified by reducing compensation to Rs.1,97,05,004/- (Rupees One Crore Ninety Seven Lakhs Five Thousand and Four only), with interest at 7.5% per annum as stated above. The appellant/Insurance Company is directed to deposit the modified compensation, together with accrued interest and costs, less any amount already deposited, within eight weeks from receipt of a copy of this judgment. On deposit, the claimants may withdraw their respective shares with proportionate interest and costs as apportioned by the Tribunal, less any sums already withdrawn, on appropriate applications. Any excess deposit may be sought to be refunded in accordance with law. There shall be no order as to costs in this appeal. Consequently, connected miscellaneous petition, if any, is closed.

(M.D.I.,J.) (K.G.R.,J.)
11-11-2026

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

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To:

1. Motor Accident Claims Tribunal,
   Special Sub Court,
   Thirupathur.

2. The Section Officer,
   V.R.Section, Madras High Court,
   Chennai 600 104

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KRISHNASWAMY GOVINDARAJAN J.

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