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C.M.A.No.314 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2026

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THE HONOURABLE MR . JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

C.M.A.No.314 of 2026

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C.M.P.No.3787 of 2026

The Divisional Manager
New India Assurance Co.Ltd.,
No.1, CSI Buildings First Floor, Officers' Line
Vellore District ... Appellant

Versus

1. Elumalai
2. Vijaya
3. ArunKumar
4. Lavanya
5. Muthukumar ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act,1988 to set aside the award dated 29.01.2025 passed in MCOP No.650 of 2022 by the Motor Accident Claims Tribunal Judge/Principal District Judge, Tiruvannamalai District.

For Appellant : Mr.Chockalingam SP

For Respondent : Mr.E.Sathyaraj for R1 to R4



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JUDGMENT

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

This appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal/Principal District Judge, Tiruvannamalai District dated 29.01.2025 in M.C.O.P.No.650 of 2022.

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

3. The brief facts necessary for disposal of this case is as follows:

On 28.11.2020 at about 12.15 am, when the deceased was coming towards Tiruvannamalai on Tiruvannamalai to Vellore main road in a two wheeler bearing Registration No.TN-25-AC-1613, car bearing Registration No.TN-12-F-8808 which came in the opposite direction driven by its driver in a rash and negligent manner hit against the two wheeler, due to which the deceased sustained grievous injuries and died on the spot A criminal case has also been registered in Crime No.2969 of 2020. Hence, the claimants who are the parents and siblings of the deceased filed a claim petition seeking compensation.

4. The above claim was resisted by the second respondent Insurance Company mainly on the ground of non-joinder of necessary parties.



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5. Before the Tribunal, on the side of the claimants, 1st petitioner was

examined as PW1 and Mr.S.Paramasivam, who was eye-witness to the accident was examined as PW2 and Exs.P1 to P13 were marked and on the side of the second respondent Insurance Company, RW1 to RW4 were examined and Exs.R1 to R5 were marked.

6. The Tribunal, after appreciation of evidence of PW2 and Exp1-First Information Report found that only the driver of the Scorpio Car driven the vehicle in a rash and negligent manner and awarded a compensation of Rs.90,47,440/-.

7. The learned counsel appearing for the appellant Insurance Company would submit that it is the specific case of appellant Insurance Company that the deceased was not wearing helmet at the time of accident and there is contributory negligence on the part of the deceased. The learned counsel further submits that post-mortem certificate of the deceased marked as Ex.P2 also indicate that the deceased appeared to have died due to the head injury and therefore, the Tribunal ought to have fixed contributory negligence on the part of the deceased. However, the said contention has not been considered by the tribunal, which has resulted in arriving at an erroneous finding that the accident had occurred owing to the rash and



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negligent driving of the Scorpio Car. Hence, the learned counsel prays to set aside the award passed by the tribunal.

8. On the other hand, learned counsel appearing for respondents 1 to 4/ claimants submits that the tribunal, on appreciation of materials, has passed a reasonable award as compensation, which does not require interference by this Court.

9. This Court has considered the rival submissions.

10. On a careful perusal of the judgment under challenge and other materials on record, this Court finds that the appellant Insurance Company has not produced any documentary evidence to establish their case that the deceased has not worn the helmet. It is well settled principle that mere pleadings are sufficient to prove the case and it should be supported by tangible evidence. In the absence of tangible evidence on the side of appellant Insurance Company, this Court does not find any infirmity in the finding of the tribunal that the accident had occurred owing to the rash and negligent driving of Scorpio Car. Mere non-wearing of the helmet is not a ground to hold that there was contributory negligence on the part of the deceased. However, learned counsel for the respondents/claimants submitted that this Court can deduct 10% towards contributory negligence.



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11. In view of the above, we modify the compensation as follows:

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Particulars	Amount (Rs.)
Loss of Income	89,62,740
Funeral expenses	15,000
Loss of estate	15,000
Loss of Consortium	40,000
Additional Amount on 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)	7,000
Additional Amount on 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)	7,700
Total	90,47,440
Less: Contributory negligence (10%)	81,42,696

Accordingly, this Civil Miscellaneous Appeal is partly allowed. The compensation of Rs.90,47,440/- is hereby reduced to Rs.81,42,696 [Rupees Eighty One Lakhs Forty Two Thousand Six Hundred and Ninety Six only). The appellant Insurance Company is directed to deposit the compensation of Rs.81,42,696/-, less the amount already deposited, together with interest at the rate of 7.25% p.a from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this judgment, On such deposit being made by Insurance Company, respondents

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1 to 4/claimants are permitted to withdraw their respective shares, as apportioned by Tribunal, along with accrued / proportionate interest and costs, by filing necessary application before the Tribunal. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

[N.S.K.,J.] [R.S.V.,J.]
17.02.2026

Index: Yes/No
Neutral Citation: Yes
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To

Motor Accident Claims Tribunal Judge/
Principal District Judge, Tiruvannamalai District



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