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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 918 of 2022

CNR:{HCMA011690572021}

AND

CMP NO. 6840 OF 2022

M/s. United India Insurance Co.Ltd.,
Office at 22B, P.R. Sundaram Iyer St,
Dharmapuri 636 701. .. Appellant(s)

Vs.

1. Lakshmi
2. Santhi
3. Revathi
4. Parthiban
5. P. Chinnasamy ..Respondent(s)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree dated 21.02.2020 made in MCOP.No.497 of 2015 on the file of the Motor Accidents Claims Tribunal, Special District Court, Dharmapuri.

For Appellant(s) : Mr.S.Arun Kumar

For R1 to R4 : Mr.M.Selvam

For R5 : Notice not ready

JUDGMENT

Unsuccessful appellant/Insurance Company has preferred the present Civil Miscellaneous Appeal, challenging the negligence fixed on their part.

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2. The first claimant is the wife, the second and third claimants are the daughters, and the fourth claimant is the son of the deceased Lakshmanan. They have filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the death of one Lakshmanan, in a road accident.

3. According to the claimants, on 23.06.2015, the deceased Lakshmanan travelled in the first respondent's lorry bearing Registration No. TN 58 F 0716 as a loadman and sugarcane-cutting coolie from Mandiya to Kadagathur. While the lorry was proceeding along the Hosur–Rayakottai Road, near the G.P.T. petrol bunk, the driver allegedly drove the vehicle in a rash and negligent manner, turned it towards the right to proceed to Subash Hotel and applied the brake suddenly. Consequently, the deceased, who was sitting on the left side of the cabin, was thrown out of the lorry and run over by its wheels, sustaining fatal injuries.

4. It is the further case of the claimants that the deceased was aged about 48 years at the time of the accident and was earning Rs.10,000/- per month.

5. The first respondent, being the owner of the offending vehicle and remained ex parte before the Tribunal.

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6. The second respondent/Insurance Company filed a counter affidavit denying the manner of the accident and the involvement of the insured lorry. It was contended that the accident had not occurred in the manner alleged by the claimants and that the complaint had been lodged belatedly with a view to making an unlawful gain. According to the Insurance Company, the deceased had travelled in the lorry as a passenger and, when the lorry was stopped for the occupants to have food, the deceased went out along with the others. While returning, he was allegedly hit by an unknown two-wheeler and sustained injuries. He was thereafter taken to the Government Hospital, Hosur. The Insurance Company further contended that the first respondent had violated the policy conditions by permitting passengers to travel in a goods vehicle and, therefore, disputed its liability to indemnify the owner.

7. Before the Tribunal, the fourth claimant was examined as P.W.1 and an eyewitness namely Mr.Thiyagarajan was examined as PW2, Exs.P1 to P17 were marked. On behalf of the second respondent, the owner of the lorry was examined as R.W.1 and one Vadivel was examined as RW2 and Exs.R1 to R4 were marked.

8. Upon appreciation of the evidence adduced on either side, the Tribunal held that the accident had occurred due to the rash and negligent driving of the

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driver of the first respondent's lorry. The Tribunal awarded compensation under various heads as hereunder:-

S.No.	Heads of Compensation	Amount awarded by the Tribunal
1	Compensation for pecuniary loss	Rs.10,96,875/-
2	Loss of consortium for 1 to 4 claimants	Rs. 1,60,000/-
3	Loss of estate	Rs. 15,000/-
4	Funeral Expenses	Rs. 15,000/-
	Total	Rs.12,86,875/-

9. Aggrieved over the same, the Insurance Company has preferred the present appeal.

10. The learned counsel appearing for the appellant/Insurance Company would submit that the Tribunal erred in fastening liability upon the appellant, despite its specific defence that the insured lorry was not involved in the accident. The Tribunal failed to note that if the accident has occurred as alleged in the claim petition ,there would not have been any necessity to lodge a belated complaint. It is further contended that the Tribunal failed to consider that there was no necessity for the fifth respondent, being the owner of the vehicle to file a sworn affidavit against the deceased, particularly when the vehicle was covered by a valid Insurance policy. According to the appellant, the deceased sustained

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injuries after being hit by an unknown two-wheeler and not due to any negligence on the part of the lorry driver.

11. Per contra, the learned counsel appearing for the respondents 1 to 4 /claimants would submit that the Tribunal, upon proper appreciation of the oral and documentary evidence, rightly concluded that the accident had occurred due to the rash and negligent driving of the lorry driver. It is further submitted that the award passed by the Tribunal is just and reasonable and does not warrant interference by this Court.

12. This Court has considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

13. According to the claimants, on 23.06.2015, the deceased was travelling in the first respondent's lorry as a loadman. When the lorry was proceeding along the Hosur–Rayakottai Road, near the G.P.T Petrol bunk, the driver suddenly turned the lorry towards the right and applied the brakes, causing the deceased to be thrown out and run over by it. The appellant, on the other hand, relies upon the version put forward by R.W.1, the owner of the lorry, that the deceased was hit by an unknown two-wheeler while returning after having food. However, the evidence of RW1 establishes that the deceased had travelled in the lorry along with other persons engaged in sugarcane-cutting

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work. Thus, the deceased's presence in the lorry immediately before the occurrence is not in dispute.

14. It is relevant to note that the first respondent, being the owner of the lorry, remained *ex parte* before the Tribunal. However, he was examined as RW1 on the respondents' side. In his evidence, he stated that, on the date of the accident, the deceased Lakshmanan had travelled in the lorry as a load man for the purpose of cutting sugarcane. He further stated that the lorry had been stopped about 500 metres away from the G.P.T. petrol bunk for the occupants to have food and that the deceased, the driver Mani, Marimuthu and Sakkarai had gone to have food, while he stayed in the lorry. He further stated that Marimuthu informed him that the deceased had been hit by an unknown two-wheeler while returning and that the deceased was taken to the hospital in the two wheeler itself by its riders. R.W.1 also stated that he had seen the deceased in the hospital and admitted him to the Government Hospital, Hosur.

15. However, Ex.R3 - copy of the Accident Register issued by the Government Hospital, Hosur, reveals that the persons who admitted the injured were shown as two unknown persons. No satisfactory explanation has been offered as to why R.W.1's name was not recorded therein if, as claimed by him, he had admitted the deceased to the hospital. Further, the Accident Register does not contain any observation regarding the smell of alcohol or the deceased

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being under the influence of alcohol. These circumstances do not support the version put forward by the appellant.

16. It is relevant to note that according to the evidence of RW1, the deceased had not sustained injuries in the accident as claimed by the second respondent/Insurance Company. However, RW1 has not chosen to lodge a complaint against the rider of the two wheeler, which allegedly caused the accident. It is also relevant to note that the owner of the lorry was not involved in the accident and the first respondent could have entered appearance and filed his counter setting forth his defences, if the lorry was not involved in the accident. However, none of the persons who had allegedly accompanied the deceased was examined on the appellant's side to substantiate this version. If the deceased had been hit by an unknown two-wheeler, it would ordinarily be expected that the persons accompanying him would have made some effort to ascertain the identity of the rider or note the registration number of the vehicle. No explanation is forthcoming for their failure to do so. Further, the lorry was not sent for inspection by the Motor Vehicle Inspector, and the driver of the lorry, Mani, who would have been the best person to explain the circumstances of the occurrence, was not examined. The conduct of the first respondent in remaining *ex parte* before the Tribunal, despite claiming that his lorry was not involved in the accident, also remains unexplained. The mere fact that the police filed a final report closing the case as undetectable does not conclude the

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issue of negligence before the Tribunal. The question must be decided independently on the evidence available, applying the standard of preponderance of probabilities.

17. The evidence of P.W2 supports the claimants' case that the accident occurred due to the negligent act of the lorry driver. The averments in the FIR also indicate that the deceased sustained injuries in the accident when the driver of the first respondent 's lorry suddenly applied the brakes, causing the deceased to be thrown out of the vehicle and sustained head injuries.

18. A perusal of Ex.P2- Post-mortem certificate reveals that the deceased had sustained the following external injuries :-

i) 2 x 2 cm on outer aspect of upper part of left thigh

ii) 1 x 1cm on left shoulder.

iii) 1x1cm on inner aspect of left knee.

iv) 1x0.5cm on left little toe.

v) 0.5x0.5cm on left big toe.

vi) 0.5x 0.5cm on left 2nd toe.

vii) 0.5 x 0.5cm on left 3rd toe.

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19. It is also relevant to note that the external injures sustained by the deceased were confined to the upper part of left thigh, left shoulder, left knee, and left toes alone. The evidence of P.W2 read along with Ex.P2 - Post-mortem Certificate supports the claimants'case that the deceased was sitting on the left side of the corner of the cabin, and sustained fatal injuries when he was thrown out following the sudden turning and braking. The alternative explanation that he was hit by an unknown two-wheeler has not been satisfactorily established. On an overall assessment of the evidence, this Court finds no ground to interfere with the Tribunal's finding that the accident occurred due to the rash and negligent driving of the first respondent's lorry.

20. As regards the quantum of compensation, considering that the deceased was aged about 48 years at the time of the accident based on the post-mortem certificate, the Tribunal, in the absence of proof of income, fixed his notional monthly income at Rs.7,500/-. As per the ratio laid down by the Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680,*** added 25% towards future prospects, the Tribunal deducted 1/4th of his income towards personal and living expenses and adopted the multiplier of '13'. The compensation awarded by the Tribunal under the head of pecuniary loss appears to be proper and reasonable. Hence, the award passed by the Tribunal does not warrant any interference.

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21. In view of the foregoing discussion, this Court finds no merit in the appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming dated 21.02.2020 passed in MCOP No.497 of 2015 by the Motor Accident Claims Tribunal/Special District Court, Dharmapuri. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

27-10-2026

Index : Yes/No
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To

The Motor Accident Claims Tribunal,
Special District Court, Dharmapuri.

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M.JOTHIRAMAN J.

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