



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	25.10.2025
Date of Pronounced	06.01.2026

CORAMThe Hon'ble Ms.Justice **R.POORNIMA****CMA(MD)No.573 of 2013****and****MP(MD)No.1 of 2013**

Oriental Insurance Company Ltd.,
South Main Veedhi,
Thanjavur Town and Munsif,
by its Branch Manager

: Appellant/2nd Respondent

Vs.

1.V.Veluthai

2.N.Sivakumar

3.N.Rajakumar

: Respondents 1 to 3/Petitioners

4.Senthilkumar

: 4th Respondent/R1

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 08/08/2002 and made in MCOP No.518 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Judge, FTC-1, Thanjavur.

For Appellant : Mr.E.Chandrasekaran

For R1 to R3 : Mr.R.Giridharan
(No appearance)



J U D G M E N T

WEB COPY

This Civil Miscellaneous Appeal is preferred against the award dated 08.08.2002 and made in MCOP No.518 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Judge, FTC-1, Thanjavur.

2.The brief case of the claimant are as follows:-

On 06.05.2022, the deceased P.Nallakumar had gone to collect the loan amount along with one Nagarajan, who is employed in his company, from the debtors in a M-80 scooter TN-49-F-4190. His son, the second petitioner also accompanied his father in another bike Bajaji Caliber TN-49-D-6721 along with his friend Kaliyamoorthy @ Moorthy and all of them started at about 08.00 am on 06.05.2002 from Thanjavur to Thiruvaiyaru. After finishing the collection work at Thiruvaiyaru, they returned back to Thanjavur. While they were proceeding near Kandiyur Sutrukulakarai, a Lorry bearing Registration No.TNL-3074 came on the back side from Thiruvaiyaru to Thanjavur, hit on the back side of the deceased vehicle. In that process, both the rider and pillion rider of the vehicle thrown away and sustained injuries they were admitted in the Thanjavur Medial College hospital, where Thiru.P.Nallakumar succumbed to injuries.

3. At the time of accident, the deceased was aged about 50 years. He



was doing finance business and thereby earning Rs.1,50,000/- per annum and he was also an income tax assessee. Claiming compensation of Rs.50,00,000/- for the death of the deceased, the legal heirs of the deceased filed a claim petition before the Tribunal.

4. The second respondent Oriental Insurance Company filed a counter denying the entire allegation contained in the claim petitions; it is alleged that according to the information gathered by the Insurance Company, there was no accident occurred as alleged in the claim petition; In this case, the second petitioner is the complainant, and as per FIR and in the complaint, he has clearly stated that the accident was only due to rash and negligent driving of the Lorry bearing Registration No.TDS-6839 and subsequently, it was found that the Lorry No.TDS-6839 did not have a valid insurance Coverage, which is essential for obtaining compensation under the Motor Vehicles Act, 1988 from one of the Insurance Companies and so, with the connivance of the concerned Police, the Registration number of the vehicle which was responsible for the accident was changed as TNL-3074 with the connivance of the first respondent;. So, it is a case of false claim and the Insurance Company is not liable to pay any compensation and prayed for dismissal of the claim petition.

5. It is further submitted that the deceased was also responsible for the



accident, since he had driven his two wheeler in a rash and negligent manner and contributed to the accident and that the deceased does not have a valid license to drive the two wheeler involved in the accident and the owner and the insurer of the Bajaj M-80 are necessary parties for proper adjudication of the matter in dispute and since they have not been added as parties, the claim petition is bad for non-joinder of necessary parties.

6. Before the Tribunal, on the side of the claimant, 5 witnesses were examined as P.W.1 to P.W.5 and 14 documents were marked as Exs.P1 to P14. On the side of the respondents, 3 witnesses were examined as R.W.1 to R.W.3 and three documents were marked as Exs.R1 to RW3. Apart from that, 'B' register of RTO Office, Namakkal was marked as Ex.C1.

7. After considering the material evidence and records, the Tribunal has awarded compensation of Rs.4,50,000/- and directed the respondents 1 and 2 to pay the said award amount jointly and severally together with interest @ 9% per annum.

8. Aggrieved over the order of the Tribunal, this Civil Miscellaneous Appeal has been preferred by the Appellant Insurance Company, disputing the manner of accident and their liability to pay the compensation.



9.It is further contended that PW2 was author of the FIR (Ex.A1) and for the purpose of claiming compensation, he has alleged that the driver of the Lorry bearing Registration No.TNL-3074 has caused the accident and also disputing the income and avocation of the deceased.

10.This court considered the rival submission of the learned counsel appearing on either side and perused the materials available on record.

11.The appellant insurance company totally disputed the involvement of the vehicle bearing registration No.TNL 3074 belonged to first respondent in the accident and contended that the vehicle involved in the accident was TDS 6839.

12.The appellant relied upon the Ex.P1, FIR registered against driver of the vehicle bearing registration No.TDS 6839, by the second respondent, who is alleged to be an eyewitness to the occurrence. It was further contended that the second respondent originally registered the complaint against the owner of the lorry bearing registration No.TDS6839 and that upon discovering that the said vehicle not insured, the present vehicle was falsely implicated in the accident in connivance with the driver, owner and police official.

13. During chief examination, P.W.2, stated that at the time of accident, he



was also following his father, Tr. Nallakumar deceased who died in the accident along with his friend. He further stated that soon after the accident, his father and the pillion rider Nagaraj sustained injuries and were taken to hospital, however his father succumbed to injury. It was further stated that Nagarajan became unconscious, while lodging the complaint, he mentioned the registration number of the vehicle as TDS 6839, inadvertently. Subsequently, after the said Nagarajan regained conscious, he informed that the vehicle which was hit their two wheeler was a lorry TNL3074. The police also enquired into the matter and informed that the vehicle involved in the accident was bearing registration No.TNL 3074, and not TDS 6839. Thereafter, he realised that the lorry bearing registration No.TDS 6839 was not involved in the accident.

14. His evidence was corroborated by the P.W.3, Nagarajan who accompanied the deceased clearly stated that on 06.05.2002, when he returning from Thiruvayaru along with deceased Nallakumar, the vehicle bearing registration No.TNL 3074 was driven by its driver in a rash and negligent manner, hit them. As a result, Tr. Nallaumar sustained injuries and he also became unconscious. Subsequently upon regaining consciousness, the next day he informed that the vehicle involved in the accident was not bearing registration No.TDS 6839, but only bearing registration No.TNL 3074. P.W.4, the Inspector of Police who investigate the case in crime No.18/2002, registered under section



279, 337 and 304(A) confirmed that the vehicle involved in the accident was TNL 3074.

WEB COPY

15. The Regional Transport Officer of the Namakkal region, was examined as P.W.5 and deposed that the vehicle bearing registration No.TDS 6839 stood registered on 29.05.1981, in respect of TVS 50 moped not a lorry. Further, the first respondent, owner of the vehicle bearing registration No.TNL 3074 was examined as R.W.3, he clearly admitted that his vehicle alone was involved in the accident. He further admitted that on the date of accident, his vehicle was proceeding towards Thanjavur with a load of bricks and was driven by his driver Kumar. He also stated that subsequent to the accident, he has not reporting for duty. He was enquired by the Investigating Officer and confirmed that, they had maintained the trip ship for the said trip. He further admitted that the vehicle involved in the accident was insured with the appellant and the appellant alone is liable to pay the compensation. Therefore, the claimant has clearly proved that the accident occurred due to the rash and negligent act of the, first respondent vehicle. Therefore, second petitioner owing to confusion and anxiety at the time of accident, had wrongly mentioned the registration number of the vehicle while lodging, the FIR. Such an incorrect mention of the registration number does not affect the merit of the case, particularly when the deceased who was the father of the second respondent had sustained grievous



injuries in the accident and subsequently succumbed.

16. It is the contention of the appellant that the vehicle involved in the accident was a lorry bearing registration No.TDS 6839, however it has been established that the said registration number pertains not to a lorry but to TVS moped which was not involved with the accident. The first respondent being the owner of the vehicle did not deny occurrence of the accident. Therefore, the Tribunal held that the accident occurred due to the negligent act of the driver of the first respondent. Since the vehicle of the first respondent was insured with the second respondent/appellant and the policy was in force on the date of accident. The tribunal held the second respondent liable to pay compensation, which is proper and need no-interference.

17. The appellant further contended that the income of the deceased was wrongly fixed at Rs.60,000/- per annum. However, this Court finds the Tribunal relied upon Ex.P8 which shows that the deceased was earning Rs.5000/- per month as his share from the partnership. Though appellant contended that the partnership firm continued generated income, even after death of the deceased, no document produced to substantiate the said contention. Therefore, the Tribunal was justified, in fixing income at Rs.60,000/- per annum. The Tribunal also deducted 1/3rd income towards his personal expenses. As regards, multiplier



the date of birth of the deceased was mentioned in the income tax return as 01.08.1947, on the date of accident viz., he was 56 years and 1 month, the applicable multiplier is 9 as per the settled principal, but the Tribunal adopted incorrect multiplier, which requires correction. Since the deceased was aged about 57 years, future prospects are liable to be added at 10%, since the deceased comes under the head of fixed salary. Further, the Tribunal awarded a sum of Rs. 10,000/- towards consortium and love and affection, which highly meagre. The same is liable to be enhanced to Rs.40,000/- each and an additional sum of Rs. 15,000/- each towards funeral expense and loss of estate also require to be awarded. Hence this Court modified the award as follows:-

Head	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Loss of dependency	4,40,000/-	3,24,000/-	Reduced
Loss of love and affection/consortium/ Funeral expenses	10,000/-	-	set aside
Consortium/ love and affection		1,20,000/-	Granted
Funeral expenses	-	15,000/-	Granted
Loss of estate	-	15,000/-	Granted
Total	4,50,000/-	4,74,000/-	enhanced

This Court modified the rate of interest from 9% to 7.5% per annum and enhanced the order of the Tribunal as above.



14. In such view of the matter, this Civil Miscellaneous Appeal is **partly allowed with certain modification** and the multiplier is reduced from 11 to 9, at the same time, the compensation amount also enhanced to **Rs.4,74,000/-** from Rs.4,50,000/- as per the principle laid down by the Apex Court in **National Insurance Co. Ltd., Vs. Pranay Sethi** reported in 2017 (16) SCC 680. The appellant/Insurance Company is directed to deposit the modified amount with accrued interest @ 7.5% per annum, instead of 9 % per annum and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the 1st respondent/1st claimant is entitled to a sum of Rs.2,74,000/-, respondents 2 & 3/claimants 2 & 3 are entitled to a sum of Rs.1,00,000/- each towards their share and on such deposit, the respondents 1 to 3 are permitted to withdraw their share, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing an appropriate petition before the Tribunal. The respondents 1 to 3/claimants are directed to pay the necessary court fee for the enhanced amount. The appellant Insurance Company is entitled to get back the excess amount if any. No costs. Consequently, connected Miscellaneous Petition is closed.

06.01.2026

Index: Yes/No
Internet: Yes/No
er



C.M.A.(MD)No.573 of

To,

1.The Motor Accident Claims Tribunal/
Additional District Judge, /FTC.1,
Thanjavur.

2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD)No.573 of

R.POORNIMA, J

er/rm

CMA(MD)No.573 of 2013

06.01.2026