BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29.01.2026

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA

CMA(MD)No.699 of 2025
and
CMP(MD)Nos.11127, 19279 of 2025 and 884 of 2026

The Branch Manager,
Reliance General Insurance Company Ltd.,
Plot No.HIG 55, 1st Floor,
80 Feet Road,
Anna Nagar,
Madurai – 625 020. : Appellant/2nd Respondent

Vs.

1.Monisha
2.Minor Rohit
(Minor 2nd respondent is represented
through his mother /guardian 1st respondent)
3.Arjunan
4.Petchi : Respondents 1 to 4 /Petitioners
5.Alaguselvi : 5th Respondent/1st Respondent

PRAYER :- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 13.08.2024 passed in MCOP No.1056 of 2023, on the file of the Motor Accident Claims Tribunal/ Special District Court, Madurai.

For Appellant : Mrs.K.R.Shivashankari

For Respondents : Mr.S.Ramsundarvijayaraj – for R1 to R4
No Appearance – R5

J U D G M E N T

(Judgment of the Court was delivered by the Hon'ble **R.POORNIMA.J**)

This Civil Miscellaneous Appeal has been preferred by the appellant/Insurance Company challenging the award, dated 13.08.2024 passed in MCOP No.1056 of 2023, on the file of the Motor Accident Claims Tribunal/ Special District Court, Madurai.

2.**The brief case of the claimants is as follows**:-

On 08.04.2023 at about 18.10 hours, the deceased Kani was riding his motorcycle bearing Registration No.TN 63 AJ 8013 from Madurai to Theni Main road, near Kamaraj University over bridge, towards east–west in the extreme left side of the road in a moderate speed, at that time 1st respondent's car bearing Registration No.TN-65-S-0146 came in the opposite direction in a rash and negligent manner and dashed against the motorcycle. As a result, the deceased was thrown off the vehicle and sustained multiple grievous injuries on his head and died on the spot.

3.In respect of the said occurrence, a case in Crime No.103 of 2023 was registered by the Nagamalai Pudukottai Police Station for the offences under Sections 279 and 304-A of IPC.

4.At the time of the accident, the deceased was aged about 42 years and was employed as a finance company collection agent, earning a monthly salary of Rs.12,000/-. Claiming a compensation of Rs.50,00,000/-, the legal heirs of the deceased filed the claim petition.

5.The appellant/Insurance Company filed a counter affidavit disputing the manner of accident, negligence, age, income of the deceased and its liability to pay compensation. It was contended that the accident occurred solely due to the negligence of the deceased, who allegedly ride the motorcycle in a rash and negligent manner without adhering to traffic rules.

6.Before the Tribunal, on the side of the petitioners, 2 witnesses were examined as P.W.1 and P.W.2 and 8 documents were marked as Exs.P1 to P8. On the side of the Respondents, one witness was examined as R.W.1 and 2 documents were marked as Exs.R1 and R2.

7.Upon consideration of the oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the car driver and fixed liability on the insurer. The Tribunal awarded a total compensation of Rs.35,55,943/- with interest.

8.Aggrieved by the said award, the present Civil Miscellaneous Appeal has been filed by the Insurance Company.

9.The learned counsel for the appellant submitted that the award passed by the Tribunal is contrary to law and against the weight of both oral and documentary evidence on record. The Tribunal itself found that the driver of the insured vehicle did not possess a valid and effective driving licence at the time of the accident. Therefore, the Tribunal ought to have exonerated the appellant Insurance Company from liability. The accident occurred due to the negligence of the deceased, who rode the two-wheeler rashly and dashed against the rear side of the insured Mahindra pick-up van. The deceased also rode the vehicle without wearing a protective headgear, which resulted in fatal injuries. Hence, the Tribunal ought to have attributed at least 50% contributory negligence to the deceased. The Tribunal erred in fixing the monthly income of the deceased at Rs.48,533/-, which is excessive and not supported by any proof. The income documents produced were only marked and not proved in accordance with law, and therefore, the Tribunal ought not to have relied upon the entire income for computing loss of future earnings. The Tribunal erred in fastening 90% negligence on the insured vehicle and awarding a sum of Rs.35,89,547/- as compensation, including Rs.49,72,924/- towards loss of income, which is highly excessive and contrary to the principles governing "***just compensation***" as laid down by the Hon'ble Supreme Court in the case of ***State of Haryana vs. Jasbir Kaur*** reported in ***(2003) 7 SCC 484***. Further, the Tribunal erred in awarding interest at the rate of 7.5% per annum, which is on the higher side.

10.The learned counsel appearing for the respondents 1 to 4/claim petitioners argued the case in support of the findings of the Tribunal and prayed for dismissal of the appeal.

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

12.The learned counsel for the appellant submitted that the accident occurred on 08.04.2023 at about 6.10 p.m. on the Madurai–

Theni Main Road near the Madurai Kamaraj University flyover. At that time, the deceased Kani was riding a Hero Splendor motorcycle bearing Registration No.TN-63-AJ-8013 from east to west. A DOST vehicle bearing Registration No.TN-65-S-0146, driven in the opposite direction from west to east, was allegedly driven at a high speed, in a rash and negligent manner, without blowing the horn and in violation of traffic rules, and collided with the motorcycle. Due to the impact, the rider sustained severe head and bodily injuries and died at the spot.

13.The FIR (Ex.P1) was registered against the driver of the DOST vehicle under Sections 279 and 304-A IPC. During cross-examination, P.W.1 admitted that she was not an eyewitness to the accident and had lodged the complaint based on information received. She also admitted that the deceased did not possess a valid driving licence to ride the motorcycle. The Tribunal observed that the second respondent/the appellant herein did not produce any oral or documentary evidence to disprove the claimants' version. Further, no effective cross-examination was conducted to discredit the evidence of PW1 and PW2.

14.Upon considering the oral and documentary evidence, including the FIR and witness testimonies, the Tribunal concluded that the driver of the first respondent's vehicle/5th respondent herein drove the vehicle rashly and negligently, which primarily caused the accident. However, since the deceased was riding the motorcycle without a valid driving licence, the Tribunal held that there was also contributory negligence on the part of the deceased. Accordingly, the Tribunal apportioned 90% negligence on the driver of the first respondent's vehicle, insured with the appellant Insurance Company and 10% on the deceased.

15.With regard to liability, the Tribunal found that the offending vehicle was insured with the appellant Insurance Company, and the policy was valid at the time of the accident. However, since the driver of the offending vehicle did not possess a valid driving licence, it constituted a breach of policy conditions. Therefore, the Tribunal directed the appellant Insurance Company to pay 90% of the compensation to the claimants and thereafter recover the same from the owner of the vehicle. The Tribunal further held that the respondents 1 to 4 herein/petitioners 1 to 4 are the legal heirs of the deceased Kani, and thus entitled to claim compensation.

16.Regarding age, based on the Transfer Certificate (Ex.P5) and Aadhaar Card, the Tribunal determined that the date of birth of the deceased was 20.03.1996, and therefore, his age at the time of accident was 27 years.

17.It is not in dispute that the deceased was working as 'Collection Agent' in Sriram Finance Company and he was getting Rs.12,200/- per month, at the time of accident. Taking into consideration of the cost of inflation index, the Tribunal has fixed Rs.17,535/- towards monthly income of the deceased. The deceased was aged about 27 years and the dependents are four.

18.It is seen that the deceased was working in a private concern which is not coming under the Government job, however, by following the principles laid down by the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd., Vs. Pranay Sethi and others*** reported in ***2017 (16) SCC 680*****,** the Tribunal added 40% towards future prospects. The Tribunal rightly applied the multiplier '17' and deducted 1/4th towards personal expenses. Accordingly, by adding 40% of the income towards future prospects and after deducting 1/4th towards his personal and living expenses and by applying proper multiplier '17', the Tribunal has rightly fixed the loss of income of the deceased at

Rs.49,72,924/-. In so far as the other heads are concerned, the Tribunal has awarded a just and reasonable compensation. Further, after deducting 10% towards contributory negligence on the part of the deceased, the Tribunal has awarded a total compensation of **Rs.35,55,943/-.**

19.This Court is of the considered view that the award of the Tribunal is just and reasonable and this Court finds no infirmity or illegality in the award passed by the Tribunal and accordingly the award passed by the Tribunal is hereby confirmed.

20.In the result, the Civil Miscellaneous Appeal is **dismissed** and the award, dated 13/08/2024 passed in MCOP No.1056 of 2023, on the file of the Motor Accident Claims Tribunal (Special District Judge), Madurai, is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.K.I.J) (R.P.J.,)
29.01.2026

Index:Yes/No
NCC:Yes/No
rm/er

To

1.The Motor Accident Claims Tribunal/
Special District Judge, Madurai.

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

G.K.ILANTHIRAIYAN.,J
and
R.POORNIMA, J

rm/er

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