BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.03.2026

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD).No.386 of 2026
and
C.M.P.(MD).No.3677 of 2026

M/s.United India Insurance Company Ltd.,
No.3E, Balavinayagar Kovil Street,
Thoothukudi,
Represented by its Branch Manager ... Appellant / Respondent No.2

Vs.

1.S.Devi ... Respondent No.1 / Claminant No.1

2.Minor Harsitha ... Respondent No.2 / Claminant No.2

3.Minor Atchaya ... Respondent No.3 / Claminant No.3

4.Pothumani ... Respondent No.4 / Claminant No.4

5.Dhanabal ... Respondent No.5 / Claminant No.5

6.Sushmitha ...Respondent No.6 /Respondent No.1

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order passed in M.C.O.P. No.10 of 2021 dated 09.08.2024 on the file of the Motor Vehicle Accident Claims Tribunal / in the Court of the learned Additional District Court (FTC), Palani and allow the above Civil Miscellaneous Appeal.

For Appellant : Mr.C.Deepak

For Respondents : Mr.K.M.Karunakaran

J U D G M E N T

(Judgment of the Court was delivered by **K.K.RAMAKRISHNAN,J.**)

The respondent Insurance Company has filed this appeal challenging the award passed in M.C.O.P.No.10 of 2021 dated 09.08.2024 on the file of the Motor Accident Claims Tribunal / Additional District Court (Fast Track Court), Palani.

2.**Facts of the case:**

The deceased, Sivaganesh, was employed as a Head Constable in the Tamil Nadu Police Department. On 16.12.2020 at about 10:25 a.m., while he was riding his two-wheeler bearing Registration No. TN57AT8758 along the Palani–Udumalai Main Road, near the Thaalaiyuthu Chengulam bend, and proceeding from east to west on the extreme left side of the road, a lorry bearing Registration No. TN69BE2075, coming from the opposite direction, while overtaking another vehicle in a rash and negligent manner, entered into the wrong side of the road and dashed against the two-wheeler ridden by the deceased. Due to the impact, the deceased sustained fatal injuries and died on the spot.

At the time of the accident, the deceased was aged about 40 years and was serving as a Head Constable. The claimants, being his legal representatives, filed M.C.O.P. No.10 of 2021 on the file of the Motor Accident Claims Tribunal (Additional District Judge, Fast Track Court), Dindigul, seeking compensation of Rs.1,00,00,000/-. The appellant–Insurance Company filed a counter statement denying the manner of the accident as alleged in the claim petition and contended that the deceased was wholly responsible for the accident. The Insurance Company also disputed its liability and sought dismissal of the claim petition.

3.**Finding of the Tribunal**:

In order to substantiate their claim, the claimants examined P.W.1 to P.W. 3 and marked Exhibits P1 to P19. On the side of the respondents, R.W.1 was examined and Exhibit R1 was marked. Upon consideration of the oral and documentary evidence, the learned Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the lorry and awarded a total compensation of Rs.87,39,555/- with interest at the rate of 7% per annum on the following heads:

Sl.No	Heads	Award Amount	Remarks
1	(A) Income of the Deceased	Rs.49,598	
2	Add-Future Prospects (B)	Rs.14,879	Add 30% since Age is 40 and permanent job
3	Less Personal Expenses of the deceased (C)	Rs.16,119	Deduct ¼ since no dependents are five
4	Monthly Loss of dependency	Rs.48,358	
5	Annual Loss of dependency (D X 12)	Rs.5,80,2996- Rs.16,059 = Rs.5,64,237/-	Since Annual Income is more than Rs.5,00,000/- so the 20% is deducted
6	Multiplier	15	Age 40
7	Total loss of dependency (F) (D X 12 X E +F)	Rs.84,63,555/-	
8	Medical Expenses (G)	Nil	
9	Compensation for loss of spouse, parental, filial consortium (H)	48,000 X 5 = 2,40,000/-	
10	Compensation of loss of estate (I)	18,000/-	
11	Compensation towards funeral expenses (J)	18,000/-	
	Total	Rs.87,39,555/-	

Aggrieved by the said award, the present appeal has been preferred by the Insurance Company.

4.**Submission of the learned counsel for the appellant:**

Challenging the impugned award, the learned counsel for the appellant–

Insurance Company raised two principal contentions. Firstly, it is contended that the learned Tribunal failed to consider contributory negligence on the part of the deceased. According to the appellant, the deceased was not wearing a helmet at the time of the accident and had sustained fatal head injuries; therefore, a reasonable percentage ought to have been deducted towards contributory negligence. Secondly, it is contended that the compensation awarded by the Tribunal is excessive. It is submitted that the Tribunal erred in deducting only one-fourth towards personal expenses instead of one-third, thereby inflating the multiplier. It is further contended that the amount awarded under the head “loss of estate” is on the higher side and requires reduction.

5.**Submission of the learned counsel for the respondent:**

Per contra, the learned counsel appearing for the claimants submitted that the Tribunal, in fact, erred in not granting adequate amount for future prospects. It is contended that since the deceased was employed as a Head Constable, the addition towards future prospects ought to have been higher. However, no cross-appeal has been preferred by the claimants. It is further submitted that the overall compensation awarded is just and reasonable and does not warrant interference.

6. This Court has considered the submissions made on either side and perused the materials available on record.

7. The point that arises for consideration in this appeal:

7.1.Whether the deceased in anyway contributed to the accident, thereby warranting deduction towards contributory negligence,

7.2.Whether the quantum of compensation awarded by the Tribunal requires interference.

8.**Discussion on negligence:**

P.W.2, an independent eyewitness examined on the side of the claimants, has categorically deposed that the offending lorry, while overtaking another vehicle, was driven in a rash and negligent manner and veered into the wrong side of the road, and collided with the two-wheeler ridden by the deceased, who was proceeding on the extreme left side of the road. The said testimony stands corroborated by the rough sketch prepared during the course of investigation, which clearly indicates that the lorry had crossed over to the opposite lane.

8.1.On a careful appreciation of the oral and documentary evidence, this Court is of the considered view that the accident occurred solely due to the rash and negligent driving of the driver of the lorry. Accordingly, this Court finds no reason to interfere with the finding of negligence recorded by the learned Tribunal.

9. **Contention regarding Non-Wearing of Helmet:**

The principal contention advanced by the learned counsel for the appellant is that the deceased was not wearing a helmet at the time of the accident and, having sustained fatal head injuries, a proportionate deduction ought to be made towards contributory negligence on account of violation of the statutory provisions under the Motor Vehicles Act. This contention, in the considered view of this Court, is legally untenable in the facts and circumstances of the present case. It is a well-settled principle that mere violation of statutory provisions, such as non-wearing of a helmet, does not ipso facto confer a right upon the tortfeasor to plead contributory negligence, unless it is established that such violation had a direct nexus with the occurrence of the accident. It is also pertinent to note that the object of wearing a helmet is primarily a safety measure intended to minimize or prevent the severity of head injuries. It does not, in any manner, prevent the happening of the accident. Therefore, the non wearing of a helmet cannot be construed as a causative factor for the accident itself. Though in certain earlier decisions,this Courts have, in peculiar factual circumstances, applied a limited deduction towards contributory negligence on account of non-wearing of a helmet, in view of subsequent development of law by the Hon'ble Supreme Court that mere violation provision of the Motor Vehicles Act, 1988",without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the serious impact upon the victim. T*here must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the hit upon the victim, and* it has been clarified that such an approach cannot be adopted universally. The determinative factor remains whether there was any negligence in the manner of driving on the part of the deceased contributing to the accident. In the absence of any evidence to establish negligent riding on the part of the deceased, the question of apportioning contributory negligence on the sole ground of non-wearing of a helmet does not stand to reason. Even in cases where fatal head injuries are sustained, the same cannot automatically lead to an inference of contributory negligence. In the present case, there is clear evidence from P.W.2 that the deceased was wearing a helmet at the time of the accident. The learned Tribunal has rightly accepted the said evidence and rejected the testimony of R.W.1, who is not an eyewitness . Accordingly, this Court holds that the plea of the appellant seeking deduction towards contributory negligence on account of non-wearing of a helmet is devoid of merit and is liable to be rejected.

10.Discussion on quantum

Insofar as the quantum of compensation is concerned, the learned Tribunal has taken into account the income of the deceased based on the salary certificate and added 30% towards future prospects, considering the age of the deceased as 40 years. As there were five dependents, the Tribunal has rightly deducted one-fourth towards personal and living expenses. After deducting income tax and applying the appropriate multiplier of 15, the Tribunal has correctly arrived at the loss of dependency. The method adopted by the Tribunal is in consonance with the settled principles governing determination of compensation in motor accident cases and does not call for interference. The contention that the amount awarded under the conventional heads is excessive is not substantiated, and the same is found to be reasonable in the facts and circumstances of the case.

11.**Result:**

In view of the above, this Court finds no merit in the appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. The appellant–Insurance Company is directed to deposit the entire award amount, if not already deposited, together with accrued interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment. Upon such deposit, the claimants shall be permitted to withdraw their respective shares of the compensation amount, in accordance with the apportionment fixed by the Tribunal, by filing appropriate applications before the Tribunal. No costs.

[N.A.V.,J.] & [K.K.R.K.,J.]
25.03.2026

NCC :Yes/No
Internet :Yes/No
Index :Yes/No
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To

1.The Motor Vehicles Accident Claims Tribunal,
Theni.

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

N.ANAND VENKATESH,J.
and
K.K.RAMAKRISHNAN,J.

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