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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26-10-2026

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

AND

THE HON'BLE MR.JUSTICE RAJNISH PATHIYIL

CMA(MD) No. 926 of 2023

CNR:{HCMD010405432023}

and CMP(MD).No.13049 of 2023

M/s.United India Insurance Co. Ltd.,
Through its Branch Manager,
No. 903/1, Tenkasi Madurai Main Road, Near
Panchayat Union Office, Kadayanallur,
Kadayanallur Taluk, Tirunelveli District.

..Appellant(s)

Vs

1. Pathandi,
   W/o. Nixcon, No. 95/84, Chairman street,
   Thirikoodapuram, Chokkampatti Village,
   Kadayanallur Taluk,
   Tirunelveli District.

2. Nixcon,
   S/o. Peter, No. 95/84, Chairman street,
   Thirikoodapuram, chokkampatti village,
   Kadayanallur taluk, Tirunelveli District.

3. Mr. Manoj,
   S/o. Nixcon, No. 95/84, Chairman street,
   Thirikoodapuram, chokkampatti village,
   Kadayanallur taluk, Tirunelveli District.

4. Murugesan,
   S/o. Arumuga Nadar, No. 11/8/45, (old D.No.
   3/8/44), 8th street, Surandai village, V.K. Pudur
   Taluk, Tirunelveli District.

5. Mariselvam,
   S/o. Arumuga Nadar, No. 11/8/45, (old D.No.

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3/8/44), 8th street, Surandai village, V.K. Pudur Taluk, Tirunelveli District.
(Notice to 4th and 5th Respondents is given up as no relief is claimed against them)

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow this Memorandum of Civil Miscellaneous Petition against the order and decree dated 07.01.2023 made in MCOP No. 117 of 2019 on the file of the Motor Accident Claims Tribunal (Additional District Judge (FTC)), Tenkasi.

For Appellant(s): Mr.B.Rajesh Saravanan

For Respondent(s): Mr.Dhilipan Pandian R L
For R1 To R3
R4 And R5 - Given Up

JUDGMENT

(Judgment of the Court was delivered by Abdul Quddhose J.)

This Civil Miscellaneous Appeal has been filed challenging the impugned award dated 07.01.2023 passed by the Motor Accident Claims Tribunal (Additional District Judge (FTC)), Tenkasi in MCOP.No.117 of 2019.

2. The appellant / Insurance Company has been directed to pay compensation of Rs.25,08,900/- to the respondents / claimants by the Motor Accident Claims Tribunal (Additional District Judge (FTC)), Tenkasi, under the impugned award, dated 07.01.2023 passed in MCOP.No.117 of 2019 as detailed hereunder:

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Heads	Amount
Loss of Dependency	Rs.27,21,600/-
Loss of Estate	Rs.15,000/-
Funeral Expenses	Rs.15,000/-
Loss of Love and Affection	Rs.2,00,000/-
	Rs.29,51,600/-
Less : Contributory Negligence at 15%	Rs.29,51,600-Rs.4,42,740/- =Rs.25,08,860/-
Total	**Rs.25,08,860 Rounded off to Rs.25,08,900/-**

3. The appellant / Insurance Company has challenged the impugned award on the following grounds:

a. The contributory negligence fixed on the part of the deceased at 15% by the Tribunal is less and it has to be enhanced. According to the appellant, only due to the fault of the deceased (rider of the motor-cycle), the accident had happened, which resulted in his death.

b. The learned counsel appearing for the appellant contends that due to the rash and negligent driving on the part of the deceased, by over-taking a stationary vehicle and dashing against the vehicle insured with the appellant, he had died and therefore, the Tribunal ought to have fixed the contributory negligence on the part of the deceased at a higher

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percentage. The appellant / Insurance Company has also questioned the quantum of compensation awarded by the Tribunal to the respondents / claimants in this appeal.

c. The learned counsel appearing for the appellant drew the attention of this Court to the impugned award and would submit that the Tribunal has erroneously fixed the contributory negligence of the deceased only at 15%, even though the deceased was alone responsible for the accident. He would submit that only based on the Motor Vehicle Inspector's report, the Tribunal has erroneously fixed the contributory negligence of the deceased at 15%, which according to him, is incorrect.

4. The learned counsel appearing for the respondents / claimants would submit that only based on the evidence of eye-witness to the accident, who was examined as P.W.3, the Tribunal has fixed the contributory negligence of the deceased at 15%, which is correct. He would submit that there is no contra evidence produced by the appellant / Insurance Company to disprove the finding rendered by the Tribunal under the impugned award.

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5. We have carefully considered the submissions made on either side and the materials available on record, which were placed before the Motor Accident Claims Tribunal.

6. At the time of the accident, the deceased was in an unconscious state of mind and therefore, he could not have been in a position to lodge a complaint with the concerned Police against the driver of the offending vehicle (insured vehicle). The appellant / Insurance Company cannot rely upon an FIR registered based on a complaint given by the driver of the insured vehicle. The FIR registered earlier was also dropped, as seen from the final report filed by the Police, in view of the death of the deceased due to the accident. The respondents / claimants had examined an independent eye-witness to the accident, namely, Periasamy, who deposed that the driver of the insured vehicle was alone responsible for the cause of the accident, which resulted in the death of the deceased. The eye-witness to the accident was grazing his goats near the scene of the accident. There is no contra evidence produced by the appellant / Insurance Company before the Tribunal to disprove the statement of the eye-witness to the accident.

7. The sketch with regard to the accident was also not produced by the appellant / Insurance Company before the Tribunal. The Police

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Official, who was examined as R.W.1, on behalf of the appellant / Insurance Company, also did not produce the sketch before the Tribunal. The driver of the insured vehicle was also not examined by the appellant as a witness to support the case of the appellant / Insurance Company that the insured vehicle was not responsible for the cause of the accident. The Tribunal has rightly taken into consideration the fact that the deceased was not wearing a helmet and was not possessing a driving license at the time of the accident and on that basis, fixed contributory negligence at 15% on the part of the deceased. The question of enhancing the same by this Court to a higher percentage does not arise as there is no evidence placed on record by the appellant / Insurance Company to disprove the statement of the respondents as deposed before the Tribunal. Any claim before the Motor Accident Claims Tribunal is adjudicated based on the principle of preponderance of probabilities and being a beneficial legislation, the Tribunal has rightly awarded the compensation to the respondents / claimants for a sum of Rs.25,08,900/- in accordance with various decisions rendered by the Constitutional Courts which includes the decisions in ***National Insurance Company Limited Vs. Pranay Sethi*** and ***Sarala Verma Vs. Delhi Transport Corporation.***

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8. The Tribunal has rightly adopted the correct multiplier for arriving at the loss of dependency. The notional income fixed by the Tribunal at Rs.18,000/- per month for an accident that happened in the year 2018 cannot be considered to be unreasonable and unjustified. The deceased, who was supposed to be working as a Mechanic, would have certainly earned a sum of Rs.18,000/- per month in the year 2018. Therefore, the contention of the appellant that the notional income fixed by the Tribunal for the deceased at Rs.18,000/- per month is unjustified cannot be accepted by this Court. The over-all compensation awarded by the Tribunal to the respondents / claimants at Rs.25,08,900/- is just and reasonable and cannot be interfered with by this Court.

9. We do not find any infirmity in the impugned award passed by the Motor Accident Claims Tribunal (Additional District Court (FTC)), FTC, Tenkasi in MCOP No. 117 of 2019 dated 07.01.2023. Therefore, this Civil Miscellaneous Appeal stands dismissed.

10. The appellant / Insurance Company is directed to deposit the entire award amount, if not already deposited together with accrued interests and costs, before the Tribunal in MCOP.No.117 of 2019, within a period of four weeks from the date of receipt of a copy of this order.

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The respondents / claimants are permitted to withdraw the same as apportioned by the Tribunal by filing an appropriate application before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

(A.Q.,J.) (R.P.L.,J.)
26-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To
The (Additional District Judge (FTC),
Motor Accident Claims Tribunal, Tenkasi.

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ABDUL QUDDHOSE, J.
AND
RAJNISH PATHIYIL, J.
TSG

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