BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2026

CORAM:

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

C.M.A(MD)No.1294 of 2025
and
C.M.P(MD)Nos.17776 of 2025 & 1102 of 2026

TATA AIG General Insurance Co., Ltd.,
SPS Complex, 3rd Floor, B28,
7th Cross, East Thillai Nagar,
Trichy-18. ... Appellant/Respondent No.2

-vs-

1.S.Jona Lourdhu Rani
2.C.Jermi
3.C.Jerli
4.Minor C.Jeri
5.Mariammal
(4th respondent is represented by his natural guardian and mother, the first respondent) ...Respondents 1 to 5/ Petitioners

(Minor R2 and R3 are declared as major and
the guardianship of their mother R1
S.Jona Lourdhu Rani is discharged
V.C.O. Dated 05.11.2025 made in
C.M.P(MD)Nos.12834 & 12836/2024 in
C.M.A(MD)No.1294/2025)
N.Saravanan (Died)

6.S.Mercy
7.N.Pappathy
8.K.Natesan ... Respondents 6 to 8/
Respondents 3 to 5

(Issuance of notice to R6 to R8 is
dispensed with, V.C.O. Dated 02.08.2024
made in C.M.P(MD)No.9945/2024
in C.M.A(MD)SR.No.45566/2024))

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to modify the order dated18.10.2023 passed in M.C.O.P.No.1788 of 2015, on the file of the Motor Accident Claims Tribunal/Special District Judge No.II to deal with MCOP cases of Thiruchirappalli.

For Appellant : Mr.V.Sakthivel

For R1 to R3 & R5: Mr.T.M.Vallatharasu

For R4 : Minor rep. by R1

JUDGMENT

(Judgment of the Court was delivered by G.K.ILANTHIRAIYAN, J.)

This Civil Miscellaneous Appeal has been preferred by the appellant/Insurance company as against the award passed in M.C.O.P.No.1788 of 2015, dated 18.10.2023 by the Motor Accident Claims Tribunal/Special District Judge No.II to deal with MCOP cases of Thiruchirappalli.

2. The claimants/respondents 1 to 5 filed a claim petition on the ground that the claimants are the legal heirs of the deceased. On 07.07.2015 at about 07.00 p.m., when the deceased was riding a motorcycle bearing Registration No.TN-81-4568 on his left hand side of the East-West Chidambaram-Trichy Road, near Golden City at Pullambadi, the offending vehicle bearing Registration No.TN-48-

M-7780 came from opposite direction was driven by its driver in a rash and negligent manner and dashed against the deceased's vehicle. Due to the said accident, the deceased sustained head injuries and immediately, he was taken to Government Hospital at Lalgudi. However, he succumbed to the injuries on 18.07.2015. Therefore, the respondents 1 to 5 being the legal heirs of the deceased, filed a claim petition. On the complaint, FIR has been registered as against the deceased in Cr.No.256 of 2015 for the offences punishable under Sections 279 and 337 of IPC.

3.On the side of the claimants, P.W.1 and P.W.2 were examined and Exs.P1 to P19 were marked. On the side of the respondent, RW1 was examined and Exs.R1 & R2 were marked.

4. On perusal of the oral and documentary evidence, the Tribunal concluded that the deceased is responsible for the accident. The Tribunal further concluded that the petition is maintainable

under Section 163-A of the Motor Vehicle Act, 1988 and awarded compensation to the tune of Rs.27,39,957/-. Aggrieved by the same, the appellants/Insurance company has filed this appeal.

5.The learned counsel appearing for the appellant submitted that the claim petition has been filed under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act') and therefore, schedule II of the Act is applicable for determining the compensation. Accordingly, the annual income of the deceased shall be taken into account subject to a maximum limit of Rs.40,000/- per annum, and the medical expenses shall be limited to a maximum of Rs.15,000/-. However, by applying the Cost Inflation Index, the Tribunal considered the monthly income of the deceased as Rs. 40,000/- and determined the annual income at Rs.2,23,217.50/-. When the provision under the II Schedule itself limits the annual income to Rs.40,000/-, the Tribunal ought not to have awarded compensation by taking into consideration an annual income exceeding Rs. 40,000/-. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Deepal Girishbhai Soni and others vs. United India Insurance Co. Ltd., Baroda*** reported in ***2001(1) TN MAC (SC) 193***.

6. Per contra, the learned counsel appearing for the claimants/respondents 1 to 5 submitted that the Tribunal has rightly awarded compensation by adopting the Cost Inflation Index; hence, it does not warrant any interference by this Court. However, if the claim petition is found to be not maintainable under Sections 140 and 166 of the Motor Vehicles Act, the matter may be remanded to the Tribunal for fresh consideration.

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

8.The only point that arises for consideration in this appeal is whether the tribunal awarded compensation by applying Cost

Inflation Index is correct or not.

9. The claim petition was filed under Section 157(A) of the Motor Vehicles Act, under which the maximum annual income as per the Second Schedule is Rs.40,000/- and the maximum permissible medical expenses are Rs. 15,000/-. Originally, the claimants had filed the petition under Sections 140 and 166 of the Motor Vehicles Act. Subsequently, the claimants filed amendment petitions to amend the claim petition in I.A.No.1 of 2021, which was allowed on 09.03.2021, and in I.A. No. 3 of 2022, which was allowed on 11.11.2022. They filed the claim petition against the insurer of the deceased rider of the motorcycle. The motorcycle was owned by the deceased's brother. He met with an accident and died as a result. An FIR was registered against the deceased in Crime No. 256/2015. However, the claimants filed a claim petition under Section 163-A of the Motor Vehicles Act. Since the deceased had borrowed the vehicle bearing Registration No.TN-81-4568 and had stepped into the shoes of his brother, who is the owner of the

vehicle, he could not have filed a claim petition under Section 163-A of the Motor Vehicles Act. However, with regard to the opposite vehicle, the deceased is a third party. Therefore, the claimants are entitled to file a petition seeking compensation against the opposite motorcycle, namely the first and second respondents in the claim petition. Further, when a claim petition is filed under Section 163-A of the Motor Vehicles Act, there is no need to go into or discuss the issue of negligence. It is a settled law that the insurer cannot raise the defence plea of negligence on the part of the deceased. If the claim petition filed under Section 163-A of the Act, compensation shall be awarded as per II schedule of the Act. Accordingly, the annual income of Rs.40,000/- per annum shall be treated as a cap. The provision under Section 163-A of the Act is being a social security provision, providing for a distinct scheme, only those whose annual income is upto Rs.40,000/- can take the benefit thereof. Though the claimants contended that the deceased was earning a sum of Rs.35,256/- per month, the income of the deceased as prescribed in II schedule as to be held as Rs.40,000/- per annum. Further, the claimants cannot maintain the claim petition under Section 140 and 166 of the Act, since the claimants are legal heirs of the tortfeasor, therefore, they rightly filed a claim petition under Section 163-A of the Act. When the claim petition is filed under Section 163 of the Motor Vehicles Act, the compensation is restricted to a maximum annual income of Rs.40,000/- and medical expenses up to Rs.15,000/-, and the application of Cost Inflation index to enhance the awarded compensation is not permissible under the law.

10. In view of the above, the compensation awarded by the tribunal is modified as follows:-

As per the II Schedule of the Motor Vehicles Act, the maximum monthly income of the deceased is Rs.40,000/-. It is assumed that 1/3rd of the annual income is deducted as personal expenses of the deceased, as per standard practice. The annual income is Rs.40,000/- × 1/3 = Rs. 13,333.33/-. The remaining income after deducting personal expenses is calculated as follows:

Rs. 40,000/- - Rs.13,333.33/- = Rs. 26,666.67/-.

The multiplier method applies based on the age of the deceased. In this case, the appropriate multiplier is 13. Loss of income is Rs. 26,666.67/- × 13 = Rs. 3,46,666.71/-. Rs.3,46,666.71/- is rounded off to Rs.3,46,670/-. The medical expenses incurred are fixed at Rs. 15,000/-.

Under the Head of Compensation	Amount
Loss of Dependency	Rs.3,46,670/-
Medical expenses	Rs. 15,000/-
Loss of Estate	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-
Transportation	Rs. 5,000/-
Love and affection	Rs.1,60,000/-
Spouse consortium to the first claimant	Rs. 40,000/-
Total	**Rs.5,96,670/- rounded off to Rs.5,97,000/-**

11. Thus, the claimants are entitled to the modified compensation of **Rs.5,97,000/-** with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation, as against the sum of Rs.27,39,957/- with 7.5% interest per annum awarded by the Tribunal. The first claimant is entitled for a sum of Rs.2,72,000/- and the claimants 2 to 4 are entitled for a sum of Rs.75,000/- each and the fifth claimant is entitled to Rs.1,00,000/-.

12.This Civil Miscellaneous Appeal is partly allowed as indicated above. In fine, the award passed in M.C.O.P.No.1788 of 2015, dated 18.10.2023 on the file of the Motor Accident Claims Tribunal/Special District Judge No.II to deal with MCOP Cases, Tiruchirappalli, is modified. The appellant is directed to deposit the modified award amount with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation, less the amount already deposited, if any, as awarded by this Court, to the credit of the claim petition, within a period of six weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit, the respondents 1 to 3 & 5/major claimants are permitted to withdraw their share with proportionate interest and costs by filing formal permission petition before the Tribunal. The share of the fourth respondent/minor claimant shall be deposited in a Nationalised Bank in a fixed deposit until they attain majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st respondent/mother of the minor claimant, once in three months directly from the bank. Excess amount, if any, shall be refunded to the appellant. No costs. Consequently, connected Miscellaneous Petitions are closed.

[G.K.I.J.,] & [R.P.J.,]
12.02.2026

NCC :Yes/No
Index :Yes/No
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To

1.The Motor Accident Claims Tribunal/
Special District Judge No.II
to deal with MCOP cases of Thiruchirappalli.

2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.

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

am

C.M.A(MD)No.1294 of 2025

12.02.2026