



CMA.(MD)No.936 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reserved	29.10.2025
Date of Pronounced	06.01.2026

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The Hon'ble Ms.Justice **R.POORNIMA**

CMA(MD)No.936 of 2015

Kasirajan : Appellant/Petitioner

Vs.

1.P.Senthil Vinayagam

2.Royal Sundaram Allianz Insurance Company Ltd.,
No.46, Whits Road,
Royapettah, Chennai-14.

3.Saraswathi Ammal (Died)

4.Duraisamy Nadar (Died)

5.D.Ashokan Duraisamy : Respondents/Respondents

(R5 is brought on record as LR of the deceased R3 and R4, vide Court order, dated 07/04/2021 made in CMP(MD)Nos.1165, 1166, 1169 & 1170 of 2021 in CMA(MD) No.936 of 2015)

PRAYER:-Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in MCOP No.146 of 2013 on the file of the Motor Accidents Claim Tribunal (Ist Additional District Court), Tuticorin, dated 24.02.2014.



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For Appellant : Mr.M.P.Senthil
For R1 and R5 : No appearance
For 2nd Respondent : Mr.S.Seenivasaraghavan
For 3rd Respondent : Died

J U D G M E N T

This Civil Miscellaneous Appeal is preferred against the award passed in MCOP No.146 of 2013 on the file of the Motor Accidents Claim Tribunal (1st Additional District Court), Tuticorin, dated 24.02.2014.

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

On 17.11.2012, at about 04.00 pm, while the deceased Manimegalai and her brothers Rengarajan and Asokan were waiting at the bus stop at North Muthulapuram to board a bus to Tuticorin. At that time, a Maruti Alto Car bearing registration No.TN-69-H-0632 belonged to the 1st respondent, insured with the 2nd respondent Insurance Company and driven by the 1st respondent from north towards south at the same road, in a rash and negligent manner, dashed on the deceased Manimegalai and her brother Rengarajan. The said vehicle also dashed an auto rickshaw bearing No.TN-69-AZ-0579, which was parked on the road and thereafter rammed into a tea shop before coming to halt. In the



accident, the said Manimegalai sustained severe multiple injuries and died on the spot.

3. At the time of the accident, the deceased was aged about 37 years and was doing tailoring work, thereby, earning a sum of Rs.10,000/- per month. The claim petition was filed by her husband seeking compensation of Rs.28,00,000/-, for the death of his wife in the alleged accident.

4. The claim petition was contested by the respondents 1 and 2 by filing a separate counter. They disputed the manner of accident as projected by the claimant and also we need their liability to pay the compensation contending that the accident did not occur due to any negligent act of the first one, but was the result of a tyre burst. Apart from that they also denied the age, occupation and monthly income of the deceased.

5. Before the Tribunal, on the side of the claimant, he was examined himself as P.W.1 and 3 documents were marked as Exs.P1 to P3. On the side of the respondents, no oral and documentary evidence was adduced.



6. The Tribunal, after analysing the oral and documentary evidence, awarded a sum of Rs.50,000/- under "no fault liability" as against the claim of Rs.20,00,000/- and directed the respondents 1 and 2 to pay a total compensation of Rs.50,000/-. Out of the said amount, the claimant being the husband of the deceased is entitled to Rs.25,000/- and Rs.12,500/- each to the respondents 3 and 4, being the parents of the deceased, against which the present appeal has been filed on the following among other grounds:-

a) The Tribunal erred in rejecting the claim of the appellant, even though he had established the case by way of producing documents Exs.P1 to P3;

b) The Tribunal failed to consider the fact that the claim petition was filed under Section 163-A of the Motor Vehicles Act and as such, the Tribunal ought to have granted the compensation for the death of the deceased;

c) The Tribunal failed to consider the fact that for filing the claim petition under Section 163-A, only two ingredients alone be necessary i.e., there should be an accident and the said accident must be caused by a Motor Vehicle and on that basis, the Tribunal ought to have awarded the compensation.



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d) It is further contended that the offending vehicle involved in the accident was duly insured with the 2nd respondent and as such, the Insurance Company cannot escape from its liability to pay the compensation and that the Tribunal ought not to have rejected the claim application filed under Section 163-A of the Motor Vehicles Act, especially when both the owner of the vehicle and the Insurance Company have not questioned the application filed under Section 163-A of the Motor Vehicles Act and under these circumstances, prays for allowing the appeal.

7. The learned counsel appearing for the 2nd respondent Insurance Company made his submission in support of the findings of the Tribunal and prayed for dismissal of the appeal.

8. Heard the learned Counsel appearing on either side and perused the materials available on record.

9. The deceased was a third party who died due being hit by the vehicle belonging of first respondent. In order to prove the same, the claimant filed Ex.P1 namely, FIR registered against the first respondent.



10. Though the first respondent contended that the vehicle was not driven in and rash and negligent manner and that the accident occurred due to a tyre burst, for which he was not responsible, he admitted that the vehicle was insured with second respondent and asserted that the, second respondent alone is liable to pay the compensation. The second respondent, did not deny that the vehicle was insured with it but call upon the claimant to prove the same.

11. The Tribunal granted Rs.50,000/- as compensation on the ground of “no fault liability”, and refused to grant compensation as prayed by the claimant, on the ground that the claim petition was filed under section 163(A) of Motor Vehicle Act, 1988, which prescribes that the annual income shall not be exceeded beyond Rs.40,000/- per annum. Since the claimant had admitted that that the monthly income of the deceased was Rs.10,000/- per month, the Tribunal refused to consider the claim under Section 163-A was not maintainable and rejected the claim under Section 163-A and awarded meagre amount on “no fault liability”. Such an approach is legally sustainable.

12. The learned counsel for the appellant placed reliance on the judgment in the case of *Ningamma vs. United India Insurance Co.*



Ltd., reported in **2009 (13) SCC 710** the Hon'ble Supreme Court has held as follows :

“Claim under section 163A by legal representative of deceased maintainability-if not maintainable, then duty of the Court, to consider claim under section 166, MV act 1988”, and further the Court held in (para 34)

“Undoubtedly, Section 166 of the MVA deals with “just compensation” and even if in the pleadings no specific claim was made under Section 166 of the MVA, in our considered opinion a party should not be deprived from getting “just compensation” in case the claimant is able to make out a case under any provision of law. Needless to say, the MVA is beneficial and welfare legislation. In fact, the court is duty-bound and entitled to award “just compensation” irrespective of the fact whether any plea in that behalf was raised by the claimant or not.”

13. The Motor Vehicle Act being a beneficial legislation, the Tribunal was duty bound to render substantial justice rather than deny relief on technical ground. Having found that the claim under Section 163-A was not maintainable to have treated. The claim under Section 166 and proceeded to adjudicate upon negligence and determine ‘just compensation’. Since the Tribunal failed to exercise its jurisdiction



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properly. This Court is well within its power to set aside impugned award and remand the matter to the Tribunal for fresh consideration in accordance with law. The Tribunal is also directed to conclude the trial after providing sufficient opportunities to both parties within a period of three months from the date of receipt of the order.

14. Accordingly, the Civil Miscellaneous Appeal is allowed and the order dated 24.02.2014 passed in MCOP No.146 of 2013 on the file of the Motor Accidents Claim Tribunal (Ist Additional District Court), Tuticorin, is set aside and the matter is remanded back to the Tribunal for fresh consideration. The learned trial Judge is directed to conclude the trial after providing sufficient opportunities to both parties and dispose of the matter within a period of three months from the date of receipt of a copy of this order. No costs.

06.01.2026

Index:Yes/No
Internet:Yes/No
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To,

1. The Motor Accident Claims Tribunal/
1st Additional District Court,
Tuticorin.

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



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R.POORNIMA, J

er/rm

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