



C.M.A(MD)No.1300 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2026

CORAM:

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

C.M.A(MD)No.1300 of 2025

and

C.M.P(MD)Nos.17818, 17820 of 2025 & 1432 of 2026

New India Assurance Company Limited,
Through its Divisional Manager,
Tallakulam Divisional Office,
34, Alagarkovil Road,
Tallakulam,
Madurai.

... Appellant/3rd Respondent

-VS-

1.S.Sakthivelmurugan
2.S.Swathi
3.S.Suhash Amrit

... Respondents 1 to 3/
Petitioners 1 to 3

4.Raja

... 4th Respondent/
1st Respondent

5.T.Anbalagan

... 5th Respondent/
2nd Respondent

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(Minor R2 & R3 are declared as major and the guardianship of their father/R.1 is discharged vide order dated 29.01.2026 made in C.M.P(MD)Nos.768, 770 and 771 of 2026)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order made in M.C.O.P.No.516 of 2020 dated 22.04.2025 on the file of the V Additional District and Sessions Court, Madurai.

For Appellant : Mr.N.Shyllappakalyan

For RR 1, 2 & 3 : Mr.S.Veeranasamy

For R – 4 : Not served

For R – 5 : No appearance

JUDGMENT

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

This appeal is directed as against the award passed in M.C.O.P.No.516 of 2020 dated 22.04.2025, on the file of the V Additional District and Sessions Court, Madurai, thereby awarding



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compensation to the tune of Rs.30,32,763/- in favour of the claimants.

2.The respondents 1 to 3 herein filed a claim petition on the ground that, on 30.11.2019, at about 10.15 p.m., when the first claimant was riding his motorcycle bearing Registration No.TN-64- proceeding along with his wife (deceased) from Viraganoor – Madurai Road, Velammal CBSE School to Theppakulam, travelling from east to west on the left hand side of the main road, near Madurai – Ramand check post arch, the fifth respondent's lorry bearing Registration No.TN-30-A.R.9772, driven by the fourth respondent, was proceeding in the same direction in a rash and negligent manner without observing any traffic rules and regulations. The lorry dashed against the two-wheeler on its back side, due to which the first claimant and his wife fell down. The first claimant sustained simple injuries and his wife sustained grievous injuries. She was immediately taken by a 108 ambulance to

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Vellammal Hospital, Madurai for treatment and admitted as an inpatient on 30.11.2019. Despite the treatment, her condition worsened and she succumbed to her injuries on 11.12.2019 at about 09.05 p.m.

3.On the complaint, the Inspector of Police, Traffic Investigation Wing Police Station, Madurai City registered an F.I.R in Crime No.212 of 2019 for the offences punishable under Sections 279, 337 and 304(A) of I.P.C as against the fourth respondent.

4.In order to prove their claim, the claimants had examined P.W.1 and marked Exs.P1 to P16. On the side of the respondents therein, they examined R.W.1 and marked Ex.R.1.

5.On perusal of the oral and documentary evidence, the Tribunal concluded that the accident had occurred only due to the rash and negligent driving of the fourth respondent herein and fixed



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the entire liability on the appellant to pay compensation of Rs.30,32,783/-. Aggrieved by the same, the present appeal has been preferred by the New India Assurance Company.

6.The learned counsel appearing for the appellant raised the following grounds:

(i) The fourth respondent, who is the driver of the fifth respondent's vehicle, did not possess a valid license to drive the lorry, which is a heavy motor vehicle. He only possessed a light motor vehicle license and as such, it is violation of the policy conditions. Hence, the appellant is not liable to pay compensation.

(ii) Insofar as the quantum of compensation is concerned, the Tribunal ought not to have taken the salary of the deceased as Rs.14,600/- when the first claimant himself produced the salary



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certificate of the deceased, which stated a monthly salary of Rs.12,000/-.

(iii) However, the driving licence of the fourth respondent was not marked before the Tribunal, since it was not available.

7.The learned counsel appearing for the appellant further submitted that the claimants failed to prove the salary certificate issued by the competent person ie., the person who issued the salary certificate. The claimants also failed to examine the employer of the deceased to prove the salary certificate, which was marked as Ex.P9.

8.The appellant has now filed a petition in C.M.P(MD)No. 17829 of 2025 to receive document as additional evidence in this appeal, which are as follows:

(i) Xerox copy of the driving licence of the fourth



(ii) Xerox copy of the RC Book of the vehicle bearing Registration No.TN-30-AR-9772.

(iii) Xerox copy of the certificate of Insurance along with terms and conditions of the policy.

9.Though notice served on the fourth respondent and his name was printed in the cause list, no one represented on his behalf before this Court either by person or through a pleader.

10.The learned counsel appearing for the claimants categorically submitted that the claimants proved the income of the deceased by marking the salary certificate as Ex.P9. No contra evidence was produced by the appellant to disprove Ex.P.9. Further, the deceased, being a teacher, had also taken tuition classes for



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students and earned more than Rs.2,600/- per month. Therefore the Tribunal rightly took the salary as Rs.14,600/- and added 25% towards future prospects of the deceased, hence it does not require any interference of this Court.

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

12.The appellant, being the insurer of the fifth respondent's vehicle, has challenged the award mainly on the following three grounds:

(i) The fourth respondent drove the insured lorry without possessing a valid licence to drive a heavy motor vehicle.

(ii) The claimants did not examine the employer who issued the salary certificate to prove the deceased's monthly income.



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(iii) The Tribunal ought not to have taken the salary of the deceased as Rs.14,600/- when the claimants filed a salary certificate only to the extent of Rs.12,000/-.

13.Insofar as the licence of the fourth respondent is concerned, the appellant filed a petition in C.M.P(MD)No.17820 of 2025 to receive additional documents.

14.On perusal of the documents annexed along with the petition, it is revealed that the fourth respondent possessed only a light motor vehicle licence under No.901/19 in Licence No.TN-72-20060007354, valid from 18.05.2006 to 20.11.2024. It is also Evident from the Motor Vehicle Inspection Report, which was marked as Ex.P.6.



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15.Ex.P6 contains the details of the licence of the fourth respondent which was produced at the time of inspection of the offending vehicle. Further, the Registration Certificate of the offending vehicle reveals that it is a heavy motor vehicle. The insurance policy of the offending vehicle was issued on the condition that the driver of the vehicle shall possess valid driving licence to drive the said vehicle. Therefore, all three documents are necessary to decide this appeal. Hence, this Court is inclined to allow the petition and **C.M.P(MD)No.17820 of 2025 is allowed.** The additional documents are marked as Ex.R.2 to Ex.R.4.

16.Therefore, the fourth respondent did not possess a valid driving licence to drive the offending vehicle. Hence, the appellant is



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not liable to pay the compensation. However, Section 149 of the Motor Vehicles Act provides for “pay and recovery”. Accordingly, the appellant is directed to pay the compensation as awarded by the Tribunal and the appellant is at liberty to recover the same from the fifth respondent, who is the owner of the offending lorry.

17.Insofar as the salary of the deceased is concerned, the claimants marked Ex.P9, the salary certificate of the deceased. The salary certificate was issued by the school where the deceased was employed as a teacher. Though the claimants did not examine the employer of the deceased, the appellant did not produce any contra evidence to disbelieve the salary certificate.

18.That apart, in the claim petition itself it is stated that the deceased was also taking tuition classes for students and earning more than Rs.2,600/- per month. Therefore, the Tribunal rightly fixed the monthly salary of the deceased as Rs.14,600/- and it does



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not warrant any interference of this Court.

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19.Insofar as the future prospects are concerned, the Tribunal rightly added 25% towards future prospects, considering the age of the deceased and awarded compensation to the tune of Rs.30,32,763/-. Hence it also does not require any interference of this Court.

20.In fine, the award passed in M.C.O.P.No.516 of 2020 dated 22.04.2025, on the file of the V Additional District and Sessions Court, Madurai, is confirmed. This Civil Miscellaneous Appeal is dismissed with liberty to the appellant to recover the compensation from the fifth respondent in accordance with law.

21.The appellant is directed to deposit the entire award amount with interest and costs as awarded by the Tribunal, less the



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amount already deposited, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit, the respondents are permitted to withdraw their respective shares with proportionate interest and costs by filing formal permission petition before the Tribunal. No costs. Consequently, connected C.M.P(MD)Nos.17818 of 2025 and 1432 of 2026 are closed.

[G.K.I.J.,] & [R.P.J.,]
10.02.2026

NCC :Yes/No
Index :Yes/No
Internet :Yes
ps

Note: Additional documents marked before the High Court:

- 1) Ex.R.2 - Xerox copy of the driving licence of the fourth respondent.**
- 2) Ex.R.3 - Xerox copy of the RC Book of the vehicle bearing Registration No.TN-30-AR-9772.**
- 3) Ex.R.4 - Xerox copy of the certificate of Insurance along with terms and conditions of the policy.**

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Registry is directed to mark the above additional documents.

To

- 1.The V Additional District and Sessions Court,
Madurai.
- 2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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

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