BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11/03/2026

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR. JUSTICE P. DHANABAL

CMA(MD). No.338 of 2026
and
C.M.P(MD).No.3076 of 2026

Branch Manager,
The United India Insurance Company Limited,
LIC, Divisional Office Building,
Jeevan Prakash, Gandhiji Road,
Thanjavur. ... Petitioner

Vs

1. Aarayi,,
2. Gopal,
3. Punniyamoorthi,
4. Sivagami,
5. Kamatchi,
6. Sakthivel, ... Respondents

PRAYER :- civil miscellaneous appeal filed under section 173 of motor vehicles act to set aside the order dated 04.04.2025 passed in MCOP No. 62 of 2025 on the file of Motor Accidents Claims Tribunal, Special District Judge, Thanjavur.

For Petitioner : Mr.I.Suthakaran
For R1 to R5 : Mr.R.Rajamohan

JUDGMENT

[Order of the Court was made by N.ANAND VENKATESH, J.]

The United India Insurance Company limited has filed the present appeal challenging the award passed by the Motor Accidents Claims Tribunal, Special District Judge, Thanjavur in MCOP No.62 of 2025 dated 04.04.2025.

2. Heard Mr.I.Suthakaran, learned counsel appearing for the petitioner and Mr.R.Rajamohan, learned counsel appearing for the respondents 1 to 5.

3. The respondents 1 to 5 were the claimants before the Tribunal and their case is that the deceased Raju was riding his two wheeler on 04.05.2024 and at about 11.45 a.m., when the vehicle was moving from Thanjavur to Thiruvarur, near Ammaiyappan cross road, the vehicle belonging to the sixth respondent, which is a Omini Car was driven in a

rash and negligent manner and dashed as against a two wheeler, as a result of which, the deceased suffered from serious head injuries and died on the spot. Based on a complaint, an FIR came to be registered in Crime No.155 of 2024 by the Koradacheri Police Station, Thiruvarur District. It is under these circumstances, the claim petition came to be filed before the Tribunal.

4. The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the 6th respondent. Having rendered such a finding, the Tribunal has fixed the total compensation of Rs.75,88,710/- which was directed to be paid by the appellant / Insurance Company along with the interest of 7.5% per annum. Aggrieved by the same, the present appeal has been filed before this Court.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. The learned counsel for the appellant primarily raised three issues. The first issue is that the deceased was riding the two wheeler without a valid license and therefore, there was an element of contributory negligence, since the vehicle was driven without a license. The second issue that was raised by the learned counsel for the appellant is that even though the Tribunal had considered income tax deduction, untimately, when the compensation was determined, no such deduction was made. The third ground that was raised by the appellant is that family pension was received by the wife of the deceased and while calculating the monthly income, the proportionate amount was not reduced and the entire amount was fixed as the loss of income.

7. Insofar as the first ground is concerned, the Insurance Company has not taken any steps to summon the concerned RTO to ascertain as to whether any driving licence was issued in favour of the deceased. The non-availability of a driving license is not a matter of assumption and it is a question of fact which has to be established. This burden has not been discharged by the appellant / Insurance Company and hence, this ground is rejected.

8. The second ground raised pertains to the deduction of family pension while calculating the monthly income of the deceased while determining the compensation for the loss of income. It is now well settled that no such deduction can be made while determining the compensation for loss of income and it is not necessary for this Court to burden this judgment by extracting all the relevant judgments.

9. The third ground that has been raised by the appellant / Insurance Company requires consideration of this Court. In the above order, the Tribunal has taken into consideration the fact that the deceased was earning a sum of Rs.79,503/- as a monthly income and he was having an annual income of Rs.9,54,036/- .

10. The Tribunal has taken into consideration the judgment in Pranay Sethi reported in 2017 16 SCC 680 and made an observation that the income tax payable has to be deducted from the total income and 15% must be added towards the future prospects. Having rendered such a finding, while calculating the loss of income, proper deduction was not made.

11. Therefore, there is a calculation error. We are inclined to interfere only for the purpose of correcting the calculation error and the compensation payable is calculated as follows ;-

11.1. Annul income would come to Rs.9,54,036/-, considering the age of the deceased, 15% future prospects has to be added, thereby total annual income would come to Rs.10,97,141/- (Rs.9,54,036/- + Rs. 1,43,105/-). Approximately 10% income tax is deducted to a sum of Rs. 1,00,000/-, thereby the amount would come to Rs.9,97,141/-, rounded to Rs.10,00,000/-. Considering the dependents of the deceased, ¼ on income of the deceased has to be deducted for his personal expenses, thereby, the amount comes to Rs.7,50,000/-. Considering the age of the deceased, multiplier 9 is adopted, then the amount would come to Rs. 7,50,000/- X 9 = Rs.67,50,000/-. Thus, loss of Dependency = Rs. 67,50,000/-.

11.2. The petitioners each are entitled to Rs.48,000/- towards consortium, thereby the amount would come to Rs.1,92,000/-.

11.3. The petitioners are entitled to Rs.18,000/- towards loss of estate and also entitled to Rs.18,000/- towards funeral expenses, in total, they are entitled to Rs.69,78,000/-= (Rs.67,50,000/- + Rs.1,92,000/- +

Rs.18,000/- + Rs.18,000/-), rounded to Rs.69,80,000/-.

11.4. Therefore, the petitioners are entitled to the compensation of Rs.69,80,000/- and the award passed by the Tribunal is modified to that effect.

12. In the light of the above discussion, the quantum of compensation is fixed in the above terms and in all other respects, the order passed by the Tribunal is upheld. The appellant Insurance Company is directed to deposit the said modified award amount within a period of 6 weeks from the date of receipt of a copy of this order, after deducting the amount already deposited if any. On such deposit being made by the appellant Insurance company, the respondents 1 to 5 / claimants are at liberty to withdraw the said money as apportioned by the Tribunal with accrued interest by filing proper application. Consequently, connected miscellaneous petition is closed.

[N.A.V., J.] & [P.D.B., J.]

11.03.2026

tta

To

The Motor Accidents Claims Tribunal,
Special District Judge,
Thanjavur.

N.ANAND VENKATESH , J.
AND
P.DHANABAL, J.

tta

ORDER
IN
CMA(MD) No.338 of 2026

Date : 11/03/2026