



C.M.A(MD) No.130 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 03.03.2026

CORAM:

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

C.M.A(MD) No.130 of 2020

and

CMP(MD)No. 2363 of 2020

M/s.Oriental Insurance Company Limited
Rep.by its Manager
No.124, Pallipalaya Nagar
Pallipalayam,
Tiruchengode

... Appellant

-VS-

1. Girija
2. Minor.Madheswaran
3. Minor. Suthiska
*(Minors 2 and 3 represented by their natural guardian
and mother of the first respondent Girija)*
4. Chithra
5. Sangeetha
6. Periyakkal
7. M/s. Lucky Yarn Tex India Ltd.,
Rep. by its Managing Director,
No.7/33, K.P.R.Nagar
Kumarapalayam Road,
Pallipalayam, Tiruchengode
Namakkal
(seventh respondent remained exparte
before the lower court)

... Respondents



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Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment made in MCOP No.390 of 2017 dated 15.07.2019 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Karur.

For Appellant : Mr.C.Karthick
For R1 to R3 : Paper publication on 04.02.2026
For R4 to R6 : Mr.K.Sudalaiyandi
R7 : Exparte

J U D G M E N T

(Judgment of the Court was delivered by P.DHANABAL, J.)

This Civil Miscellaneous Appeal has been filed as against the order passed by the Motor Accident Claims Tribunal/Principal District Judge, Karur, in MCOP No.390 of 2017 dated 15.07.2019

2. The appellant is the second respondent in the claim petition. The respondents 1 to 6 herein have filed claim petition seeking compensation of Rs.20,00,000/- for the death of one Sankar who died in a road accident. The claimants/respondents 1 to 6 have filed a claim petition before the Motor Accident Claims Tribunal, Karur alleging that the petitioners 1 to 6 are the legal representatives of the deceased. On



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13.06.2007, the deceased Sankar was driving his two wheeler bearing Reg.No. TN 45 X 5735 on Karur to Trichy main road at that time on the east of Thirukampuliyur bus stop heading to Mayanur in Karur to Trichy main road, a Jeep bearing Reg.No.TN 34 R 7291 at about 1.40 hrs came in the opposite direction in a rash and negligent manner and dashed against the two wheeler, as a result of which, he was thrown out of the two wheeler and sustained injuries all over his body and immediately, he was taken to Amaravathy Hospital, Karur and after first aid, he was taken to Rajaji Hospital, Madurai where he died on 22.06.2017. The deceased was aged about 25 years at the time of accident and he was working as a tailor and earning a sum of Rs.12,000/- per month and the petitioners also incurred a sum of Rs. 2,00,000/- towards medical expenses. The accident that took place due to rash and negligent driving of the driver of the jeep. The second respondent is the owner of the jeep and therefore, both are jointly and severally liable to pay the compensation to the claimants.

3. The second respondent filed counter denying the age, income and the manner of accident. According to the second respondent, the



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deceased without following the traffic rules road the two wheeler in the middle of the road and hit the jeep, thereby the rider of the two wheeler alone was responsible for the accident and the driver of the first respondent is no way responsible for the accident and therefore, he is not liable to pay any compensation.

4. Based on the above said pleadings, the Tribunal framed the following points for determination:

- a) Whether the accident took place due to rash and negligent driving of the jeep by its driver?*
- b) Whether the petitioners are entitled for compensation? If so, what is the quantum?*

5. Before the Tribunal, on the side of the petitioners, P.W.1 to P.W. 2 were examined and exhibits ExPs 1 to 9 were marked. On the side of the second respondent, RW1 was examined, but no document was marked.

6. After careful analysis of the evidence adduced on both sides, the Tribunal allowed the petition in part and awarded a sum of Rs.



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28,83,648/- with interest @ 7.5%per annum by directing the second respondent insurer of the vehicle to deposit the amount within a period of 30 days.

7. Aggrieved by the said order of the Tribunal, the second respondent who is the insurer of the vehicle, has preferred this appeal on the ground of negligence and also challenging the quantum of compensation.

8. The learned counsel appearing for the appellant would submit that the respondents 1 to 6 who are said to be the legal heirs of the deceased who died in the accident have filed this claim petition alleging that the driver of the vehicle who insured with the appellant bearing Reg.No TN 34 R 7291 dashed against him while the deceased was riding his two wheeler bearing Reg. NoTN 45 AX 5735. In fact, the accident took place due to negligence on the part of the deceased. Since the deceased was riding in a two wheeler and the four wheeler was involved in the accident, First Information Report has been registered as against the driver of the jeep and the Tribunal has fixed the income of



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the deceased as Rs.12,000/- without any documents. The respondents have examined the driver of the jeep as RW.1 and he categorically deposed about the negligence on the part of the deceased who in an drunken stage came to the middle of the road and caused the accident. The Tribunal only based on the First Information Report and the Motor Vehicles Inspector report has fixed the entire liability as against the driver of the jeep. The Tribunal failed to consider the evidence of RW.1. Further, the Tribunal also awarded a sum of Rs. 3,00,000/- towards loss of love of affection. As per the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others** reported in **2017 ACJ 2700**, there is no provision for awarding compensation under the head of loss of love of affection and therefore, the fair and decretal order passed by the Tribunal is liable to be modified.

9. The learned counsel appearing for the respondents would submit that the respondents 1 to 6 are the legal heirs of the deceased who died in the road accident due to rash and negligent driving of the driver of the jeep. The petitioners have examined P.W.1 and P.W.2 and



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marked Ex.P.1 to Ex.P.9. P.W.1 has deposed about the manner of accident and the income of the deceased. There is no contra evidence adduced as against the evidence of P.W.1 in respect of dependency and the income of the deceased.

9.1. So far as negligence is concerned, the eyewitness to the occurrence has been examined as P.W.2 and he deposed about the negligence on the part of the driver of the jeep. Though the respondents have examined the driver of the jeep as RW.1, the First Information Report has been registered as against the driver of the jeep and the charge sheet also filed as against him after investigation by the concerned police. Therefore, the petitioners proved their case and the negligence on the part of the driver of the jeep and the Tribunal also after considering the evidence came to a fair conclusion. So far as quantum is concerned, the deceased was working as a tailor and earning a sum of Rs.12,000/- per month and P.W.2 had deposed about the income and nature of work of the deceased. There is no contra evidence and therefore, the Tribunal has awarded a fair compensation and this petition is liable to be dismissed.



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10. This Court has heard both sides and perused the materials available on records.

11. Upon perusing the pleadings and records and upon hearing both sides, the points for determination in this appeal are:

a) Whether the accident took place due to negligence on the part of the driver of the Bolero Vehicle?

b)) Whether the compensation awarded by the Tribunal is sustainable?

12. In this case, there is no dispute in respect of involvement of the vehicle in the accident and the injuries sustained by the deceased due to the accident. The applicants in the main claim petition who are respondents 1 to 6 in the present appeal have filed the main petition for claiming compensation of Rs.20,00,000/-due to the death of the deceased/Sankar who died in the road accident. According to the claimants, the accident took place due to negligence on the part of the driver of the jeep. The appellant/respondents denied the negligence on the part of the driver of the jeep. According to them, the deceased drove



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the vehicle in the middle of the road and he himself hit the jeep and due to his negligence the accident was occurred and he died.

13. The Claimants have to prove the negligence on the part of the driver of the jeep. In order to prove the negligence on the part of the driver of the jeep, the claimants have examined P.W.2 who is eyewitness to the occurrence and he categorically deposed about the negligence on the part of the driver of the jeep. Apart from that, the claimants have also produced Ex.P.1, copy of the First Information Report, rough sketch and Motor Vehicle Inspection Report.

14. On careful perusal of the above said documents, they reveal that based on the complaint lodged by the complainant the First Information Report has been registered as against the driver of the jeep. The Motor Vehicle Inspection Report shows that there is a damage in the front side of the jeep and therefore, the available evidence shows that the driver of the jeep drove the vehicle in a rash and negligent manner and caused the accident and thereby, the negligence on the side of the driver of the jeep has been proved by the claimants.



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15. On the side of the respondents, R.W.1 was examined who is the driver of the jeep was examined and he deposed that the rider of the two wheeler rode the vehicle in a rash and negligent manner and he himself dashed against the jeep since he was riding the two wheeler in the middle of the road. However, the First Information Report has been registered as against RW1 and he has not given any compliant as against the deceased immediately after the accident and therefore, the claimants have to prove the negligence on the part of the driver of the jeep. The Tribunal also after considering the evidence adduced on both sides correctly fixed the liability on the side of the driver of the jeep. Therefore, the said findings of the Tribunal is based on evidence and thereby, this Court has no warrant to interfere with the findings of the Tribunal in respect of the negligence. Thus, the point is answered.

16. So far as quantum in concerned, according to the claimants, the deceased was working as a tailor in K.C.P.packagings at the time of accident and he was earning a sum of Rs.12,000/- per month and they also filed photocopy of the identity card of the deceased and they have



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not examined any witnesses or produced any documents to prove the monthly income of the deceased. The Tribunal, relying upon the judgment of this Court in *Andal and two others .vs. Avinav Kannan and another* reported in **2019 (1) TNMAC 54 (DB)** and also considering the fact that the deceased was 25 years on the date of the accident, has taken the notional income of the deceased as Rs.11,000/-. Further, the Tribunal added 40% of the monthly income towards future prospectus as per the decision of the Honourable Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in **2017 ACJ 2700** and after deducting 1/4th of the income of the deceased and after adopting multiplier method, the Tribunal awarded reasonable amount under the head of the loss of income. The respondents have not adduced any contra evidence in respect of the income of the deceased.

17. The Tribunal awarded a sum of Rs.10,000/- towards transport expenses and a sum of Rs.8,848/- towards medical expenses and this Court finds that the same is reasonable and accordingly are confirmed.



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18. As rightly contended by the learned counsel appearing for the appellant, the Tribunal ought not to have awarded a sum of Rs. 3,00,000/- towards love and affection. The Tribunal also awarded a sum of Rs.40,000/- towards consortium. Since the Tribunal failed to award consortium of Rs.40,000/- each to the claimants, the claimants are entitled to Rs.2,40,000/-. Hence this Court can adjust the amount awarded under the head of loss of love and affection to the tune of Rs. 2,00,000/- for consortium.

19. So far as remaining Rs.1,00,000/- is concerned, as per the judgment of the Hon'ble Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***2017 ACJ 2700***, 3% of the amount has to be increased for every three years and thereby, more or less, amount awarded towards loss of love and affection is equal to the increased amount of 3% per annum for every three years under the head of loss of consortium, loss of estate and funeral expenses and therefore, this Court need not go disturb the quantum and the said compensation awarded towards loss of love and affection can be adjusted for the head of loss of consortium, loss of estate



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and for funeral expenses. Therefore, this Court need not interfere with the award passed by the Tribunal, and thereby, the appeal is liable to be dismissed.

20. In the result, the Civil Miscellaneous Appeal stands dismissed.

Consequently connected miscellaneous petition stands closed.

[N.A.V.,J] [P.D.B.,J]
03.03.2026

Internet : Yes / No

Index : Yes / No

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To

1. The Motor Accident Claims Tribunal/
Principal District Judge, Karur.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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**N. ANAND VENKATESH, J.
and
P.DHANABAL, J.**

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