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CMA.(MD)No.287 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25.02.2026

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

CMA(MD)No.287 of 2024

and

CMP(MD)No.3754 of 2024

The Oriental Insurance Company Ltd.,
Represented by its Divisional Manager,
D.No.732, 1st Floor,
Sekars Chamber,
P.K.S.A., Arumugam Road,
Sivakasi – 626 123,
Virudhunagar District.

: Appellant/2nd Respondent

Vs.

1.Palchristy

2.Minor J.Jefri Jones

3.Minor.J.Jermina Jenis

(Minor respondents 2 and 3 are represented
through their mother /guardian 1st respondent)

4.Rajamanickam (died)

5.Chellathai

: Respondents 1 to 5 /Petitioners

6.A.Dharmayuk Ayyavu

: 6th Respondent/1st Respondent



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PRAYER :- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 13.07.2023 passed in MCOP No.115 of 2019, on the file of the Motor Accident Claims Tribunal/ Principal District and Sessions Court, Virudhunagar District at Srivilliputhur.

For Appellant : Mr.A.Ilango

For Respondents : Mr.M.Thirunavukkarasu – for R1 to R3 & R5
died – R4
unserved - R6

J U D G M E N T

(Judgment of the Court was made by the Hon'ble R.POORNIMA.J)

Though this Civil Miscellaneous Appeal was disposed of by this Court, dated 06/02/2026, before signing the judgment, we found that the matter required reconsideration. Accordingly, the matter is listed today, heard and the judgment, dated 06/02/2026 is hereby recalled. The appeal is now disposed of as under:-

This Civil Miscellaneous Appeal has been preferred by the appellant–Insurance Company challenging the award dated 13.07.2023



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passed in MCOP No.115 of 2019, on the file of the Motor Accident Claims Tribunal/ Principal District and Sessions Court, Virudhunagar District at Srivilliputhur.

2.The brief case of the claimants is as follows:-

On 04.05.2018 at about 06.00 p.m., the deceased Jeyakumar was riding his motorcycle bearing Registration No.TN 84 A 3763 left side of the road from Virudhunagar to Thiruthangal Road, near Ramalakshmi ITI towards North - South Road, at that time a car bearing Registration No. TN-34-Q-3935 came in the opposite direction in a rash and negligent manner and dashed against the motorcycle. As a result, the deceased was thrown off the vehicle and sustained multiple grievous injuries all over his body and died on the spot itself.

3.In respect of the said occurrence, a case in Crime No.359 of 2018 was registered by the Thiruthangal Police Station for the offences under Sections 279 and 304-A of IPC.

4.At the time of the accident, the deceased was aged about 42 years and was employed in a Software Company, Srivilliputtur for the past 15 years, earning a monthly salary of Rs.24,861/-. Claiming a



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compensation of Rs.45,00,000/-, the legal heirs of the deceased filed the claim petition.

5.The appellant–Insurance Company filed a counter affidavit disputing the manner of accident, negligence, age, income of the deceased and its liability to pay compensation. It was contended that the accident occurred solely due to the negligence of the deceased, who allegedly ride the motorcycle in a rash manner without adhering to traffic rules.

6.Before the Tribunal, on the side of the claimants, 2 witnesses were examined as P.W.1 and P.W.2 and 22 documents were marked as Exs.P1 to P22. On the side of the Respondents, neither oral nor documentary evidence was marked.

7.Upon consideration of the oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the car driver and fixed liability on the insurer. The Tribunal awarded a total compensation of Rs.42,65,408/- with interest.



8. Aggrieved by the said award, the present Civil Miscellaneous Appeal has been filed by the Insurance Company.

9. Heard the learned counsel on either side and perused the material available on records.

10. This appeal is filed only challenging the quantum. It is not in dispute that the deceased was running a Software Centre in the name of Jenis Software and Systems at Srivilliputhur and thereby, he was earning Rs.24,861/- per month, at the time of accident, as seen from Ex.P19. He was also an income Tax Assessee. By relying upon the said documents, the Tribunal has fixed the monthly income of the deceased at Rs. 24,861/-. The deceased was aged about 42 years and the dependents are five.

11. PW1 has deposed regarding the occurrence of the accident. His evidence is in consonance with FIR (Ex.P1), Rough Sketch (Ex.P2) and Charge Sheet (Ex.P5). In order to corroborate his testimony, the eyewitness to the accident was examined as PW2. In his evidence also, he has clearly spoken about the manner in which the accident occurred and his testimony is consistent with FIR (Ex.P1), Rough Sketch (Ex.P2)



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and Final Report (Ex.P5). On the side of the respondents, it was suggested during cross-examination that the accident did not occur due to the negligence of the 2nd respondent. However, no oral evidence or documentary evidence has been produced on their side to substantiate the said contention. Considering the oral evidence of the claimants witnesses and the documentary evidence marked as exhibits, the Tribunal has rightly held that the accident occurred only due to the negligence of the respondents. Since this Tribunal has already held that the accident occurred due to the negligence of the 1st respondent, both the 1st respondent (owner/driver) and the 2nd respondent (insurer) are jointly and severally liable to pay compensation.

12.It is seen that the deceased was running a Soft-ware centre, which is not coming under the Government job. As per the principles laid down by the Hon'ble Supreme Court in the case of **National Insurance Company Ltd., Vs. Pranay Sethi and others reported in 2017 (16) SCC 680**, the claimants are entitled to 25% of the income towards future prospects. The Tribunal rightly applied the multiplier '14' and deducted 1/4th towards personal expenses. Accordingly, the loss of dependency has been rightly calculated by the Tribunal at **Rs.39,15,408/-**. The Tribunal awarded Rs.1,00,000/- for spousal consortium and Rs.2,00,000/- towards



parental consortium and filial consortium and Rs.25,000/- each under the head of funeral expenses and transportation, which are contrary to the principles laid down by the Hon'ble Apex Court in the case of *Magma General Insurance Company Ltd., Vs .Nanu Ram and others* reported in *2018(1) TN MAC 452 (SC)*. As per the said decision, the claimants are entitled to **Rs.40,000/-** each towards consortium, which comes to Rs.2,00,000/-. This Court awards **Rs.15,000/-** towards loss of estate, instead of Rs.25,000/- towards under the head of Transportation charges awarded by the Tribunal and **Rs.15,000/-** towards funeral expenses, instead of Rs.25,000/-. The rate of interest fixed by the Tribunal as 7.5% per annum is confirmed.

13.According the compensation awarded by the Tribunal to the claimants are re-quantified as follows:-

Head	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Loss of dependency	39,15,408/-	39,15,408/-	Confirmed
Spouse Consortium	1,00,000/-	40,000/-	Reduced
Parental/Filial Consortium	2,00,000/-	1,60,000/-	Reduced
Transposition	25,000/-	-	Set side
Funeral expenses	25,000/-	15,000/-	Reduced
Loss of estate	-	15,000/-	Granted
Total	42,65,408/-	41,45,408/-	



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14.In such view of the matter, this Civil Miscellaneous Appeal

is **disposed of** and award amount is reduced to **Rs.41,45,408/-** from Rs.42,65,408/-. The appellant/Insurance Company is directed to deposit the modified amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such compliance, the major claimants are permitted to withdraw their share as apportioned by the Tribunal with accrued interests and costs, less already withdrawn. The share of the minor claimants shall be deposited in any one of the Nationalized Banks in a fixed deposit scheme, till they attain majority. The 1st claimant being the mother and natural guardian of the minor claimants is entitled to withdraw the interest accrued on the fixed deposit once in three months for the welfare of the minor. No costs. Consequently, connected Miscellaneous Petitions are closed.

(G.K.I.J) (R.P.J.,)
25.02.2026

Index:Yes/No
NCC:Yes/No
rm/er



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To

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- 1.The Motor Accident Claims Tribunal/
Additional District Judge, Virudhunagar.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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