BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.06.2026

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD).No.366 of 2026
and
C.M.P.(MD).No.3494 of 2026

The Branch Manager,
United India Insurance Company Ltd.,
RF Road, Shanmugananda Bhavan,
Palani Town. ... Appellant / 2nd Respondent

Vs.

1.P.Gayathri
2.S.Ramasamy
3.R.Renugadevi ...1st to 3rd Respondents / Petitioners

4.J.Jeyakumar ... 4th Respondent / 1st Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award made in M.C.O.P. No.398 of 2023 dated 31.07.2025 on the file of the learned Motor Accidents Claims Tribunal / Additional District Court (Fast Track Court), Palani, Dindigul District.

For Appellant	:	Mr.I.Robert Chandra Kumar
For R1 to R3	:	M/s.Poojashree

JUDGMENT

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

The appellant–Insurance Company, which was the second respondent before the Motor Accident Claims Tribunal in M.C.O.P.No.398 of 2023 on the file of the learned Motor Accident Claims Tribunal / Additional District Court (Fast Track Court), Palani, Dindigul District, has preferred the present appeal challenging the findings of the Tribunal by order of award dated 31.07.2025 fixing negligence on the rider of the insured vehicle and directing the appellant to satisfy the award and recover the same from the owner of the vehicle.

2.Facts of the case:

2.1. According to the claimants, on 06.12.2022 at about 7.00 p.m., the deceased, Prabhakaran, husband of the first claimant and son of claimants 2 and 3, was riding his motorcycle bearing Registration No.TN 94 C 2480 on the Palani–Dindigul Road from west to east, near Netaji Nagar Pirivu. At that time, a TVS XL HD motorcycle bearing Registration No.TN 94 A 8955, owned by the first respondent and ridden by one Mohamed Isaq, approached the said road from Netaji Nagar Pirivu on the northern side of the road and attempted to cross the road in a rash and negligent manner. In the process, the said vehicle collided with the motorcycle ridden by the deceased, resulting in the accident. Owing to the impact, the deceased sustained grievous head injuries and succumbed to the same while being taken to the Government Hospital, Palani. At the time of the accident, the deceased was aged about 32 years and was employed as a Civil Engineer, allegedly earning a monthly income of Rs.30,000/-. Contending that the accident occurred solely due to the rash and negligent riding of the rider of the offending vehicle and that the said vehicle was covered under a valid insurance policy issued by the appellant/Insurance Company, the claimants filed M.C.O.P. No.398 of 2023 claiming compensation of Rs.75,00,000/-.

2.2. The appellant/Insurance Company filed a counter statement denying the manner of the accident, as well as the age, occupation and income of the deceased. It was specifically contended that the accident occurred solely due to the rash and negligent riding of the deceased himself. According to the appellant, the deceased was riding the motorcycle without wearing a helmet and without a valid insurance policy for his vehicle. Therefore, it was contended that the rider of the insured vehicle was not responsible for the occurrence of the accident, and the claim petition was liable to be dismissed.

2.3. Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 were examined and Exhibits P1 to P13 were marked. On the side of the respondents, R.W.1 was examined and Exhibits R1 to R4 were marked.

3. **Findings of the Tribunal**

3.1. Upon appreciation of the oral and documentary evidence available on record, the Tribunal held that the accident occurred due to the negligence of the rider of the insured vehicle and consequently directed the appellant/Insurance Company to pay a sum of **Rs.63,78,464/-** as compensation to the claimants, with liberty to recover the same from the owner of the vehicle, under the following heads:

Sl. No.	Description	Amount (Rs.)
1.	Loss of Dependency (Rs.32,667 × 12 × 16 less Income Tax of Rs.4,600/- per annum)	61,98,464/-
2.	Loss of Love and Affection (Rs.48,000/- × 3)	1,44,000/-
3.	Loss of Estate	18,000/-
4.	Funeral Expenses	18,000/-
	Total	**63,78,464/-**

3.2.Aggrieved by the said award, the appellant/Insurance Company has preferred the present appeal challenging the findings of the Tribunal on negligence, the direction to pay and recover, and the quantum of compensation awarded to the claimants.

4.Submissions of the learned counsel appearing for the appellant:

4.1. The learned counsel appearing for the appellant/Insurance Company contended that the Tribunal erred in fixing the entire negligence on the rider of the insured vehicle without properly appreciating the facts and circumstances of the case. According to the learned counsel, the deceased himself contributed to the occurrence of the accident by riding his motorcycle in a rash and negligent manner.

4.2. The learned counsel further submitted that the deceased was not wearing a protective helmet at the time of the accident, and the head injury sustained by him was the immediate cause of his death. Therefore, the Tribunal ought to have held that the deceased was guilty of contributory negligence and reduced the compensation proportionately. It was also contended that the rider of the offending vehicle did not possess a valid and effective driving licence on the date of the accident, thereby constituting a fundamental breach of the policy conditions. In such circumstances, the appellant/Insurance Company ought to have been completely exonerated from its liability instead of being directed to pay the compensation and recover the same from the owner of the vehicle.

4.3. The learned counsel further submitted that the Tribunal fixed the monthly income of the deceased on the higher side without any legally acceptable evidence. Ex.P12 was not proved by examining the employer or any competent witness, and therefore the Tribunal ought to have adopted a reasonable notional income. On these grounds, the learned counsel prayed that the award passed by the Tribunal be set aside or, in the alternative, the compensation be substantially reduced.

5.Submissions of the learned counsel for the respondent:

5.1. Per contra, the learned counsel appearing for the claimants submitted that the Tribunal, upon a proper appreciation of the oral and documentary evidence, rightly concluded that the accident occurred solely due to the rash and negligent riding of the offending vehicle. The testimony of P.W.2, an independent eyewitness, coupled with the First Information Report and the final report filed against the rider of the offending vehicle, clearly establishes the negligence on his part.

5.2. The learned counsel further submitted that the appellant/Insurance Company did not adduce any acceptable evidence to establish contributory negligence on the part of the deceased. A mere allegation that the deceased was not wearing a helmet cannot, by itself, be a ground to attribute negligence and the part of the deceased, particularly when the evidence on record establishes that the accident was caused by the rash and negligent riding of the offending vehicle.

5.3. With regard to the issue of driving licence, the learned counsel submitted that even assuming there was a breach of the policy conditions, the Tribunal rightly followed the settled principle of "pay and recover" and directed the appellant/Insurance Company to satisfy the award in the first instance and thereafter recover the amount from the owner of the vehicle.

5.4. The learned counsel also submitted that the deceased was a qualified Civil Engineer aged 32 years and had the potential to earn a substantial income. The Tribunal has awarded just and reasonable compensation based on the materials available on record, and therefore the award does not warrant any interference. Accordingly, the learned counsel prayed for dismissal of the appeal.

6. This Court has carefully considered the rival submissions advanced on either side and perused the entire materials available on record.

7. In the light of the rival submissions and the grounds raised in the appeal, the following points arise for determination:

(i) Whether the Tribunal was justified in fixing negligence on the rider of the offending vehicle and directing the appellant/Insurance Company to satisfy the award in the first instance and thereafter recover the same from the owner of the vehicle?

(ii) Whether the compensation awarded by the Tribunal, particularly the monthly income fixed for the deceased and the consequential computation of loss of dependency, warrants interference?

8.Discussion:

8.1. So far as negligence is concerned, it is the case of the claimants that on 06.12.2022 at about 7.00 p.m., the deceased was riding a two-wheeler with a pillion rider on the Palani–Dindigul Road, proceeding from west to east and keeping to the left side of the road. When the vehicle reached near the Netaji Nagar Junction on Netaji Road, the offending vehicle came from the Netaji Nagar Junction in a rash and negligent manner, proceeding from north to south, and dashed against the two-wheeler of the deceased. According to the claimants, the accident occurred solely due to the negligent driving of the offending vehicle.

8.2. The said version is supported by the evidence of P.W.2, an independent eyewitness, who has clearly deposed about the manner in which the accident occurred. This Court finds no material contradiction or circumstance to discredit the testimony of P.W.2. Further, the First Information Report was registered against the driver of the offending vehicle and, after investigation, the final report was also filed against him. No contra evidence has been adduced on the side of the Insurance Company to establish any negligence on the part of the deceased rider.

8.3. In such circumstances, this Court is of the view that the learned Tribunal rightly appreciated the oral and documentary evidence, particularly the testimony of P.W.2, the FIR, and the final report, and correctly concluded that the accident occurred solely due to the negligence of the driver of the offending vehicle. This Court finds no reason to interfere with the said finding.

8.4. Coming to the quantum of compensation, it is the specific case of the claimants that the deceased was aged about 32 years, had completed a Bachelor's Degree in Civil Engineering, and was earning a sum of Rs.30,000/- per month prior to the accident. It is true that the deceased was not employed on the date of the accident. During the course of the proceedings, the claimants produced Ex.P12, which indicates that the deceased had earlier earned more than Rs.35,000/- per month. However, no employer or competent witness was examined to prove the income reflected in the salary certificate.

8.5. Taking into consideration the educational qualification of the deceased, his professional background as a Civil Engineer, and the evidence available on record, this Court fixes the notional monthly income of the deceased at Rs.30,000/-.

8.6. Adding 40% towards future prospects, the monthly income is fixed at Rs.42,000/- (Rs.30,000/- + Rs.12,000/-). After deducting one-third towards personal and living expenses, the monthly contribution to the family comes to Rs.28,000/-. Applying the multiplier of 16, considering the age of the deceased as 32 years, the loss of dependency is calculated at Rs.53,76,000/- (Rs.28,000/- × 12 × 16). The compensation awarded by the Tribunal is therefore liable to be modified.

8.7. Insofar as the issue relating to the driving licence and the direction to "pay and recover" is concerned, this Court has already dealt with the very same issue in detail in ***C.M.A(MD)Nos.517 of 2025 and 213, 327, 419, 432, 442 of 2026*** dated ***01.06.2026***. For the reasons stated therein, this Court is of the view that the direction issued by the Tribunal directing the Insurance Company to pay the compensation to the claimants in the first instance and thereafter recover the same from the owner of the vehicle is perfectly in accordance with law. The contention that the Insurance Company is liable to be completely exonerated from liability is unsustainable and is accordingly rejected.

9. **Conclusion**:

9.1. In the result, the Civil Miscellaneous Appeal is partly allowed. The findings of the Tribunal on negligence and the direction to pay and recover are confirmed. However, the compensation awarded by the Tribunal in M.C.O.P. No.398 of 2023 dated 31.07.2025 on the file of the learned Motor Accidents Claims Tribunal / Additional District Court (Fast Track Court), Palani, Dindigul District is reduced **from Rs.63,78,464/- to Rs.55,56,000/-** in the following manner:

Sl. No.	***Heads***	***Amount awarded by the Tribunal***	***Re-quantified Amount by this Court***	***Status***
1	Loss of Dependency	61,98,464/-	53,76,000/-	*reduced*
2	Loss of Love and Affection (Rs.48,000 × 3)	1,44,000/-	1,44,000/-	*confirmed*
3	Loss of Estate	18,000/-	18,000/-	*confirmed*
4	Funeral Expenses	18,000/-	18,000/-	*confirmed*
Total		**63,78,464/-**	**55,56,000/-**	***reduced***

In all other respects, the award of the Tribunal stands confirmed. However, the compensation awarded by the Tribunal is modified and reduced as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

[N.A.V.,J.] & [K.K.R.K.,J.]
05.06.2026

NCC :Yes/No
Index :Yes/No
Internet:Yes/No
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To

1.The Motor Accidents Claims Tribunal /
Additional District Court (Fast Track Court),
Palani, Dindigul District.

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

N.ANAND VENKATESH,J.
and
K.K.RAMAKRISHNAN,J.

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Judgment made in
C.M.A.(MD).No.366 of 2026

Dated: 05.06.2026