



C.M.A(MD)No.200 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2026

CORAM:

**THE HON'BLE MR JUSTICE N.ANAND VENKATESH
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

**C.M.A(MD) No.200 of 2026
and C.M.P(MD) No.1786 of 2026**

M/s.The Oriental Insurance Company Limited,
No.39/40, Sharadha Shopping Complex,
Simmakkal, Madurai – 625 001.

... Appellant

Vs.

1. Panaiyammal

2. Sinthu

3. Chittammal

4. Jeyabalan

5. Alagusundaram

6.The Divisional Manager,
M/s.United India Insurance Company Limited,
7A, West Veli Street, Madurai - 625 001.
(Amended as Per Order in I.A.124,
dated 11.01.2024).

... Respondents



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PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the order dated 09-02-2024 made in M.C.O.P.No.678/2017 of the Motor Accidents Claim Tribunal Cum Special District Judge, Madurai and allow this appeal with cost.

For Appellant : Mr.E.Chandrasekaran

For Respondents : Mr.K.Kumaravel for R1 to R3 and R5
Mr.C.Jawahar Ravindran for R6

J U D G M E N T

**(Judgment of the Court was delivered by
N.ANAND VENKATESH, J.)**

This appeal has been filed by the Insurance Company challenging the award passed by Motor Accidents Claim Tribunal Cum Special District Judge, Madurai, in M.C.O.P. No.678 of 2017 dated 09-02-2024.

2. The respondents are the claimants. The first respondent is the wife of the deceased, second and fifth respondents are the children of the deceased and the third respondent is the mother of the deceased. The case of the respondents is that on 26.09.2016 at about 3.00 p.m., the

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deceased was riding his two-wheeler, at that point of time, the driver of another two-wheeler belonging to the fourth respondent drove in a rash and negligent manner and dashed against the two-wheeler of the deceased, as a result of which the deceased sustained grievous injuries and succumbed to the injuries on 04.10.2016. An FIR came to be registered in Crime No.368 of 2016. It is under these circumstances, the claim petition came to be filed before the tribunal.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place due to the rash and negligent driving on the part of the driver of the offending vehicle.

4. Having rendered the above finding, the Tribunal proceeded to determine the compensation amount in the following manner:

Heads	Amount
Loss of Dependency	Rs.14,48,568/-
Loss of Consortium	Rs. 1,60,000/-



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Transportation Expenses	Rs. 5,000/-
Funeral Expenses	Rs. 15,000/-
Total	Rs.16,43,568/-
10% deducted for negligence of the deceased	Rs. 1, 64,357/-
Total	Rs.14,79,211/-

The above compensation amount of 14,79,211/- was directed to be paid along with interest at the rate of 7.5% per annum from the date of the petition. However, considering the fact that the drivers of both the vehicles did not possess valid driving licenses, the tribunal fixed contributory negligence. Therefore, pay and recover was ordered.

5. The Insurance Company has filed the present appeal mainly on the ground that the driver of the offending vehicle did not possess a valid driving license and therefore, pay and recover ought not to have been ordered.

6. This Court carefully considered the submissions made by the learned counsel appearing for the appellant and also the award passed by the Tribunal.



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7. The ground that was taken by the learned counsel appearing for the appellant is to the effect that the Tribunal ought not to have ordered for pay and recover. The said ground is squarely covered by the judgment of Hon'ble Supreme Court in the case of ***National Insurance Company Limited Vs. Swaran Singh reported in 2004 3 SCC 297.*** Hence, this Court does not find any illegality in the order passed by the Tribunal applying the principle of pay and recover.

8. Insofar as the quantum of compensation is concerned, this Court finds that the Tribunal has fixed a fair and just compensation and it does not require the interference of this Court.

9. It is brought to the notice of this court by the learned counsel appearing for the insurance company that the entire compensation amount has already been deposited before the tribunal.

10. In the result, this Civil Miscellaneous Appeal stands dismissed. The claimants will be entitled to withdraw the compensation



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amount in the proportion as fixed by the Tribunal. No costs.

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Consequently connected Miscellaneous Petition is closed.

[N.A.V., J.] [K.K.R.K., J.]
16.06.2026

NCC :Yes/No

Index :Yes/No

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To

1.The Motor Accidents Claim Tribunal Cum Special District Court,
Madurai.

2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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AND
K.K.RAMAKRISHNAN,J.

Indu

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