



C.M.A(MD)No.908 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2026

CORAM:

**THE HON'BLE MR JUSTICE N.ANAND VENKATESH
AND
THE HON'BLE MR JUSTICE P.DHANABAL**

**C.M.A(MD)No.908 of 2024
and
CMP (MD) No.9656 of 2024**

United India Insurance Company Limited,
Through its Divisional Manager,
7A, West Veli Street, Madurai Town,
Madurai.

... Appellant

Vs.

1.Selvi

2.Minor Naveen Kumar

(Minor R2 is declared as major and the guardianship of his mother R-1-Selvi is discharged V.C.O. Dated 07.11.2025 made in C.M.P. (MD).Nos.14810 and 14812 of 2024 in C.M.A.(MD).No.908 of 2024)

3.Vairathai

4.K.Senthil

... Respondents



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PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to call for the records pertaining to the fair order passed by the Motor Accident Claims Tribunal / Additional District Court, Paramakudi in M.C.O.P.No.14 of 2018 dated 25.01.2023 set aside the same by allowing the appeal.

For Appellant : Mr.Pethu Rajesh

For R-1 to R-3 : Mr.D.Senthil

For R-4 : No Appearance

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 against the award passed by the Motor Accident Claims Tribunal / Additional District Court, Paramakudi in M.C.O.P.No.14 of 2018 dated 25.01.2023.

2. Heard the learned counsel on either side.



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3. The respondent Nos.1 to 3 were the claimants before the Tribunal. They filed a claim petition on the ground that the body of the deceased Karuppiah, who is the husband of the first respondent and father of the second and third respondents, was found near the bridge at Ayyanarkovil and an FIR came to be registered in Crime No.343 of 2017 for the offence under Section 304 (A) of IPC by the Paramakudi Taluk Police Station.

4. According to the claimants, the deceased was sleeping at Kumaran Store Manufacturing Company during the night hours, since his two-wheeler was in repair and at that time, the lorry belonging to the fourth respondent ran over the deceased and caused serious injuries, as a result of which, the deceased succumbed to the injuries.

5. The appellant / Insurance Company took a stand that two different versions have been given by the claimants with respect to the cause of demise of the deceased and they have improved the case at a later stage. The Insurance Company has also taken a stand that the



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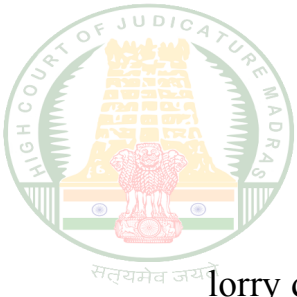
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deceased should have been under the influence of alcohol and had slept in an open place inside a cement factory and hence, had contributed for the accident. Accordingly, the appellant / Insurance Company sought for the dismissal of the claim petition.

6. The claimants examined P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.21. The appellant / Insurance Company examined R.W.1 and R.W.2 and examined Ex.R.1 to Ex.R.7.

7. The Tribunal broadly dealt with two issues. The first issue was as to whether there was negligence on the part of the driver of the lorry, who had ran over the body of the deceased and the second issue was whether the compensation claimed by the claimants is just and reasonable.

8. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident had taken place only due to the negligence on the part of the



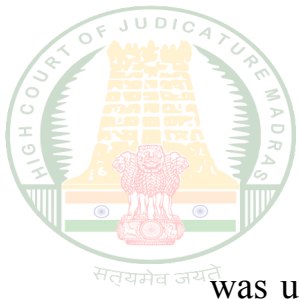
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lorry driver. Having rendered such a finding, the Tribunal fixed the total compensation of Rs.18,30,000/- (Rupees Eighteen Lakhs and Thirty Thousand only) payable with interest at the rate of 7.5 interest per annum.

9. The main ground that was urged by the learned counsel appearing for the appellant is that there was certainly contributory negligence on the part of the lorry driver and the same has not been taken into consideration by the Tribunal. It was further submitted that the manner in which the accident had taken place itself is questionable, since two versions were given with respect to the incident. The learned counsel further submitted that the compensation fixed by the Tribunal is exorbitant.

10. Insofar as the issue of negligence is concerned, the Tribunal took into consideration the evidence of P.W.1 and P.W.2. The Tribunal mainly focused on the evidence of P.W.2, who is an eye witness to the incident. He had stated that the two-wheeler belonging to the deceased



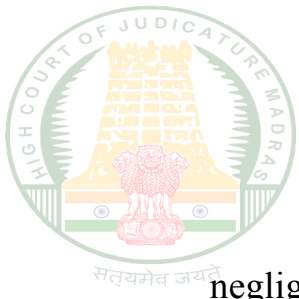
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was under repair and he had sought for a spanner to refix the chain and since it was not available, he parked the vehicle and slept inside the factory and at about 02.00 a.m., the driver belonging to the lorry which is owned by the fourth respondent drove in a rash and negligent manner and the left side front tyre ran over the deceased and as a result, he died.

11. The Tribunal also took into consideration the FIR that was registered in Crime No.343 of 2017 and the police report which came to be marked as Ex.P.14. The Tribunal also took into consideration the report of the Motor Vehicle Inspector-Ex.P.12. On appreciation of evidence, the Tribunal came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the lorry driver.

12. Even though the learned counsel appearing for the appellant submitted that there are two different versions for the accident and there was contributory negligence on the part of the deceased, no contra evidence was let in before the Tribunal. The issue of contributory



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negligence is not a matter of presumption and it has to be necessarily proved. Since no evidence has been let in by the Insurance Company, there is no question of presuming that there was contributory negligence on the part of the deceased. In any case, we find that the Tribunal has appreciated the evidence, applied its mind and rendered the finding and we do not find any perversity in the said finding. Therefore, with respect to the issue of negligence, we uphold the finding of the Tribunal and the same does not require the interference of this Court.

13. Insofar as the issue of compensation is concerned, the Tribunal had taken the income of the deceased at Rs.12,000/- and added 25% towards future prospectus and applied multiplier of '14' and determined the compensation under the head of loss of dependency. Insofar as the other traditional heads are concerned, the wife was granted loss of consortium at the rate of Rs.40,000/- and insofar as two children are concerned, they were given Rs.40,000/- each under the head of loss of love and affection. This can be safely taken to be a compensation under the head of loss of consortium. The compensation given under the other heads are also very reasonable.



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14. In view of the above, we find no ground to interfere with the compensation fixed by the Tribunal and the compensation fixed is found to be just and reasonable.

15. In the light of the above discussion, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

16. The appellant / Insurance Company had already deposited 50% of the compensation amount along with the accrued interest before the Tribunal. In view of the dismissal of this appeal, the balance compensation amount shall also be deposited by the appellant / Insurance Company before the Tribunal along with the interest within a period of four weeks from the date of receipt of a copy of this order. The claimants will be entitled to withdraw the compensation amount as per the apportionment made by the Tribunal.

[N.A.V., J.] [P.D.B., J.]
13.03.2026

NCC :Yes/No
Index :Yes/No
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To

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- 1.The Motor Accident Claims Tribunal / Additional District Court,
Paramakudi.
- 2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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