



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.65 of 2024

and

C.M.P.No.534 of 2024

The Oriental Insurance Company Limited,
Door No.71/33, Perumal Kovil Street,
Narasingapuram Post, Attur Taluk,
Salem District.

..Appellant

Vs

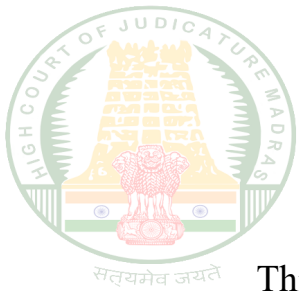
1. R.Santhiya
W/o.Late S.Ramesh
2. Minor R.Vijayasarithi
S/o.Late S.Ramesh
3. Minor R.Logeswaran
S/o.Late S.Ramesh
[minor respondents 2 and 3 are represented by
their next friend and mother 1st respondent]
4. S.Valliyammal
W/o. Late Semmalaipillai

..Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 24.08.2023 passed in MACTOP No.22 of 2021 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Attur, Salem District.

For Appellant : Mr.R.Sivakumar

For Respondents : Mr.R.Nalliyappan



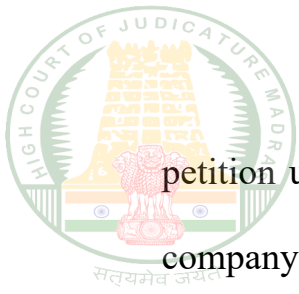
JUDGMENT

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This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Attur, Salem District, in M.A.C.T.O.P.No.22 of 2021 dated 24.08.2023.

2. The respondents are the claimants. The first claimant is the wife and claimants 2 and 3 are the minor children and the fourth claimant is the mother of the deceased Ramesh. The case of the claimants is that the deceased Ramesh was riding a two wheeler on 28.06.2019 and he was proceeding at Narasingapuram to Thandavarayapuram road and at about 2.30 P.M., when he was near SRM school, the deceased lost his balance in a jalli road and fell down and sustained grievous injuries, as a result of which, he succumbed to the injuries and died on 01.07.2019. A First Information Report also came to be registered in Crime No.88 of 2019. It is under these circumstances, the claim petition came to be filed under Section 163-A of the Motor Vehicles Act seeking compensation under the structured formula.

3. The appellant/insurance company took a stand that the accident had taken place only due to the negligence on the part of the deceased, who was under the influence of alcohol. Therefore, when the deceased was the tortfeasor, there is no question of his legal representatives seeking compensation by filing a



petition under Section 163-A of the Act. Accordingly, the appellant insurance company sought for dismissal of the claim petition.

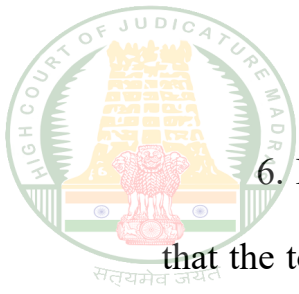
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4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, concluded that the deceased had slipped and fallen since he lost his balance and there was no evidence to show that he was under the influence of alcohol. Having rendered that finding, the Tribunal held that in a petition under Section 163-A of the Act, the issue of negligence does not assume any role and accordingly, by applying the structured formula, the Tribunal fixed a total compensation of Rs.5,27,000/- under the following heads:

<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	4,50,000/-
2.	Loss of consortium	44,000/-
3.	Loss of estate	16,500/-
4.	Funeral expenses	16,500/-
	Total	5,27,000/-

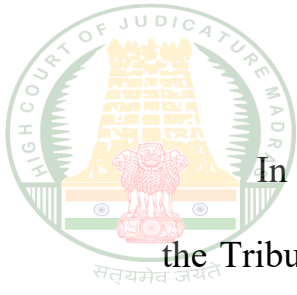
The above compensation was directed to be paid with interest at 7.5% p.a. Aggrieved by the same, the appellant insurance company has filed the present appeal.

5. Heard learned counsel for appellant insurance company and learned counsel for respondents. This Court carefully perused the materials available on record and also went through the award passed by the Tribunal.



6. In the case in hand, on carefully going through the evidence, it is seen that the tortfeasor was the deceased. Even though negligence will not have any role to play while deciding the petition filed under Section 163-A of the Act, when the Court finds that the deceased was the actual tortfeasor, his dependents cannot take advantage of Section 163-A of the Act and claim for compensation. I had an occasion to deal with the same issue in ***C.Janaki & others v. K.Kanniyappan [2024-3-L.W. 772]***.

7. In the case in hand, the deceased had left behind his wife, two minor children and mother. The total compensation fixed by the Tribunal is only Rs.5,27,000/-. This compensation was directed to be paid with interest at 7.5% p.a. If this Court strictly goes by the letter of law, the earlier judgment can be relied upon and the entire award has to be set aside. However, justice has to be rendered in this case considering the fact that there are four claimants, who will be left in lurch if the compensation does not reach them. Hence, considering the fact that the quantum of compensation fixed by the Tribunal may not have a major impact on the insurance company, but, it will decide the fate of the claimants, as an exceptional case, this Court is inclined to sustain the award passed by the Tribunal as it is without interfering with the same. Obviously, this observation itself will ensure that this order cannot be taken as a precedent in any other case and the order is passed considering the peculiar facts of the present case.



In the result, this appeal is disposed of by confirming the order passed by the Tribunal. Pursuant to the interim order passed on 12.01.2024, the appellant insurance company has already deposited the entire award amount along with interest. The respondents/claimants are entitled to withdraw the same on due application. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs. Consequently, connected miscellaneous petition is closed.

08-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
gm



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CMA No.65 of 2



N.ANAND VENKATESH, J.

gm

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