



C.M.A.No.1398 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 25.02.2025

PRONOUNCED ON : 30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

C.M.A.No.1398 of 2022

The Divisional Manager,
M/s.Cholamandalam MS General Insurance
Company Limited,
No.37, Kadampuliyur Post,
Panruti, Cuddalore,
Tamil Nadu.

... Appellant

Vs.

1.Mr. Ahamed Basha
2.Mr. Boopathy
3.Mr. Manjini
4.The Divisional Manager,
M/s.Oriental Insurance Company Limited,
Bharathi Road, Cuddalore,
Tamil Nadu.

... Respondents



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WEB PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 23.09.2021 made in M.C.O.P.No.1183 of 2017 on the file of the Motor Accident Claims Tribunal, District Court, Puducherry.

For Appellant : Mr. M.B. Raghavan for
M/s. M.B. Gopalan Associates.

For Respondents : Mr. V.S. Senthil Kumar for R1.
Mr. V. Regunathan for R2.
Mr. S. Senthil kumar for R4.
R3 – sd – No appearance.

J U D G M E N T

(Delivered by Dr. A.D. Maria clete, J)

This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, challenging the judgment and decree dated 23.09.2021, passed by the Motor Accidents Claims Tribunal, District Court, Puducherry, in MCOP No. 1183 of 2017.

2. The appellant, Cholamandalam MS General Insurance Company Ltd., contends that the Tribunal erred in attributing sole responsibility to the TATA Ace



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driver while disregarding the contributory negligence of the tractor driver. It failed to consider the sequence of events leading to the accident, particularly how the motorcycle was pushed forward under the tractor. The appellant contends that the tractor driver could have avoided running over the motorcyclist if he had taken evasive action. Furthermore, the Tribunal overlooked the fact that both drivers had pleaded guilty in the criminal case, which, according to the appellant, indicates shared liability.

3. The accident occurred on 30.01.2016 at about 14:20 hours on Pondy-Villupuram Main Road. The vehicles involved were:

- TATA Ace (TN-31-AK-7699) driven by Vetrmani (R.W.2),
- Tractor with two trailers (TN-04-F-0286, TN-31-F-8398, TN-E-7962) driven by Kaliyamurthy,
- Hero Honda Passion motorcycle (TN-05-V-2342) ridden by Ahamed Basha (Claimant/PW1).

4. According to P.W.1 (the claimant), he was travelling on his motorcycle to the right of the tractor, which was moving slowly on the left side of the road. While attempting to overtake the tractor, the TATA Ace came from behind and, in



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overtaking both the motorcycle and the tractor, collided with his motorcycle. The impact caused P.W.1 to fall under the tractor's trailer, leading to grievous injuries.

5. The claimant (P.W.1) deposed that the tractor was moving slowly on the left side of the road when he attempted to overtake it. Meanwhile, the TATA Ace, approaching from behind, also attempted to overtake both the motorcycle and the tractor simultaneously. In the process, the TATA Ace collided with the motorcycle, causing P.W.1 to lose control and fall under the tractor's trailer.

6. R.W.2 (TATA Ace driver) in his deposition claimed that the accident occurred when the motorcyclist attempted to overtake him. He further stated that the tractor driver suddenly slowed down, causing the collision. However, this claim was contradicted by road conditions, as the accident occurred at a round turn, making it unlikely that the tractor was moving fast and suddenly applied the brakes.

7. The Tribunal carefully examined the demeanour of R.W.2 (TATA Ace driver) during cross-examination and observed that he failed to provide a clear and consistent account of the accident. His statements were contradictory and lacked



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credibility, making it difficult to establish any fault beyond his own. The trial court

noted these inconsistencies and concluded that the negligent overtaking manoeuvre by the TATA Ace driver was the proximate cause of the accident.

8. Furthermore, the tractor driver was not examined during the trial proceedings, and there was no independent evidence directly implicating him. The claim that he was also negligent remains unsubstantiated, as no witness testimony, investigation report, or material evidence suggests that he contributed to the accident. In the absence of such proof, the Tribunal found no basis to attribute liability to the tractor driver.

9. The Investigating Officer (R.W.3) testified that both the TATA Ace driver and the tractor driver pleaded guilty in the criminal case and paid fines for their offences. While a criminal conviction or plea of guilt does not automatically establish negligence in a civil proceeding, it may serve as corroborative evidence. The findings in a criminal case do not automatically bind civil courts. Further in re *Janabai WD/O Dinkarrao Ghorpade & Ors versus M/S. I.C.I.C.I Lambord Insurance Company Ltd 2022 LiveLaw [SC 666]* the Supreme Court held that proceedings for compensation under the Motor Vehicles Act are summary in

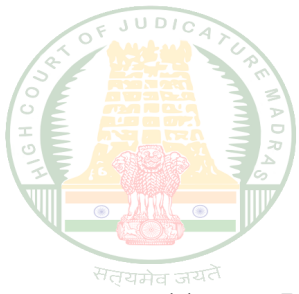


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nature and must be decided based on the evidence presented in those proceedings,

rather than relying on the evidence from a criminal trial. However, in the absence of an iota of evidence establishing negligence on the part of the tractor driver, his admission in the criminal court does not assist the appellant's case.

10. Upon examining the evidence, it is evident that the Tribunal correctly fixed liability on the TATA Ace driver for the following reasons: The TATA Ace driver's overtaking manoeuvre was the primary cause of the accident. He attempted to overtake both the motorcycle and the tractor at the same time, leading to a collision with the motorcycle. The tractor driver was moving slowly and maintaining his course on the left side of the road. There is no evidence to show that he made any sudden movement or failed in his duty of care. The plea of guilty in a criminal case is not conclusive proof of negligence in civil cases. The absence of direct evidence implicating the tractor driver supports the Tribunal's conclusion that he was not at fault. The appellant failed to provide substantial evidence to prove contributory negligence on the part of the tractor driver. Mere involvement of a vehicle in an accident does not establish negligence unless proven by clear evidence. Since the Tribunal's findings are based on sound reasoning and appreciation of evidence, there is no reason for this Court to interfere.



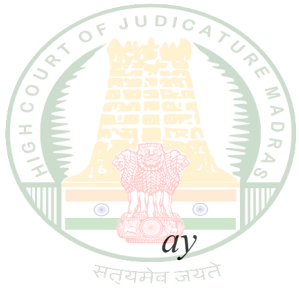
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11. In light of the above discussion, this Court finds that the Tribunal rightly held the TATA Ace driver liable and correctly dismissed the argument of contributory negligence of the tractor driver. The findings are supported by evidence, and no legal or factual error warrants interference.

12. Accordingly, the civil miscellaenous appeal is dismissed, and the Tribunal's order fixing sole liability on the TATA Ace driver is upheld. However, the tribunal erred in awarding 5.5% interest per annum and hence, the interest is fixed at 7.5% per annum. The appellant/insurance company is directed to deposit the award amount now determined by this Court, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit along with interest and costs (less the default period, if any), less the amount already deposited if any within a period of two months from the date of receipt of a copy of this Judgment. On such deposit, the first respondent is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs.

(R.S.K., J) (A.D.M.C., J)
30.04.2025



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1.The Motor Accident Claims Tribunal,
Puducherry.

2.The Section Officer,
VR Section,
High Court of Madras,
Chennai.

R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

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Pre-Delivery Judgment made in
C.M.A.No.1398 of 2022



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