



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2026

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**CMA No. 3254 of 2025
and CMP No.27073 of 2025**

The Branch Manager
United India Insurance Co. Ltd, Arun
Illam Shop No.1, Salem Bye-pass
Road, Thiru.Ve.Ka Nagar, Harur Taluk,
Dharmapuri District - 903.

Appellant(s)

Vs

1. N. Kalaivani
W/o. Nagaraj

2.K. Nagaraj
S/o. Kuppusamy

3.M. Marimuthu
S/o. Mottaiyan

4.The Branch Manager
ICICI Lombard General Insurance Co.
Ltd, ICICI Lombard House, 414, Veer
sarvarkar Marg, Near Siddhi Vinayaka
Temple, Prabhadevi,
Mumbai – 400 025.

5.A. Sathiyamoorthy
S/o. Angappan

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, appeal against the award and decree dated 01.12.2023 made in



MCOP No.919 of 2019 on the file of the Motor Accidents Claims Tribunal,
Presiding Officer, Exclusive Motor Accident Claim Tribunal, Dharmapuri.

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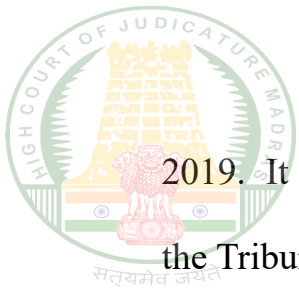
For Appellant(s): S.Arunkumar
M.L. Ganesh

For Respondent(s): Mr.R.Surya Narayanan
for R1 & R2
Mrs.R.Sreevidhya for R4

JUDGMENT

This appeal has been filed by the Insurance Company against the award passed by the Motor Accident Claims Tribunal, Presiding Officer, Exclusive Motor Accident Claims Tribunal, Dharmapuri, in MCOP No.919 of 2019 dated 01.12.2023.

2.The 1st and 2nd respondents are the parents of the deceased Kathirvel. They filed the claim petition stating that on 13.09.2019, the deceased Kathirvel was riding a two wheeler at Kadathur-Dharmapuri Road and at about 6.20 p.m, a Toyoto Car which was proceeding in front of the motorcycle was driven in a rash and negligent manner and it suddenly turned on the left side of the road, due to which the deceased dashed on the rear side of the car and fell down on the road. At that time, the other vehicle viz., a lorry which was coming in the opposite direction ran over the deceased and the deceased died on the spot. An FIR came to be registered against the driver of the lorry in Crime No.200 of



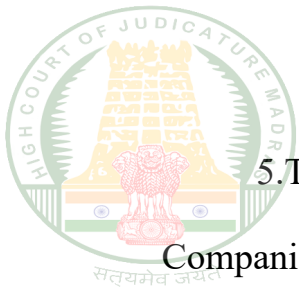
2019. It is under these circumstances, the claim petition came to be filed before the Tribunal.

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3.The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that 50% negligence is attributable to the driver of the car, 20% negligence is attributable to the driver of the lorry and 30% contributory negligence is attributable against the deceased. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.13,91,080/- and rounded off to R.13,91,100/- under the following heads:

<i>Sl.No</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1	Loss of Dependency	12,70,080/-
2	Loss of consortium Rs.44,000/-X	-
3	Loss of Love and Affection (children) Rs.44,000/-X	-
4	Filial consortium(father &mother)Rs.44,000/- X 2	88,000/-
5	Loss of Estate	16,500/-
6	Funeral Expenses	16,500/-
7	Medical Expenditure	NIL
	Total :	13,91,080/-
	Rounded off :	13,91,100/-

4.Even while calculating the compensation under the head of loss of dependency 30% was deducted towards contributory negligence and it was fixed at Rs.12,70,080/-.



5. The above compensation fixed was directed to be paid by two Insurance Companies which provided the policy cover for the car and the lorry in the ratio of 50% and 20% respectively along with interest at the rate of 7.5% p.a.

Aggrieved by the same, the present appeal has been filed before this Court.

6. Heard the learned counsel for the appellant/Insurance Company and the learned counsel for R1, R2 and R4/Insurance Company.

7. The bone of contention is regarding the negligence which was attributed by the Tribunal. It is contended on the side of the appellant Insurance Company that the driver of the car was not negligent in any manner for the accident and therefore the Insurance Company which covered the car should have been completely exonerated.

8. In the case in hand, the evidence of PW.2 and RW.1 assumes lot of significance. PW.2 was examined on the side of the claimant as an eye witness. He states that the car which was going in front all of a sudden swerved to the left side and as a result, the deceased who was riding the two wheeler was hit by the car.

9. RW.1, who is the lorry driver has stated in his evidence that the two wheeler driven by the deceased was coming behind the car and it dashed on the



car and he fell down and the lorry driver was not able to avoid running over the deceased. The right side rear wheel of the lorry has run over the deceased.

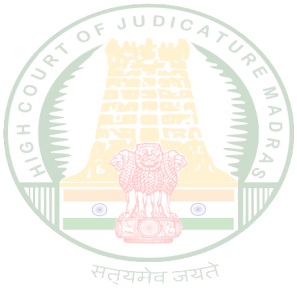
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10. While appreciating the evidence of PW.2 and RW.1, this Court must also take into consideration the MVI report which was marked as exhibits R3 to R5. Insofar as the MVI report of the car is concerned, the following damages were recorded:

1. Rear W/S glass full size broken and bottom half hanging.
2. R/R indicator assembly glass fully broken.
3. Rear non-metal bumper right side curve end nearly 40 cm depth end 20cm width fully dent inside & cracked.
4. Rear W/S above horizontal roof spoiler right side end cracked.

11. In the MVI report given for the two wheeler in which the deceased travelled, the following damages were recorded:

1. Front wheel non-metal mudguard front half broken & missing.
2. Front alloy wheel bend.
3. Front both forks fully bent.
4. Front number plate dented all over.
5. Head light & visor assembly broken and missing.
6. Speedo meter console assembly broken & hanging with wires.
7. F/L indicator assembly broken & missing.



8.F/R indicator assembly broken & hanging.

9.F/L foot rest rubber bush damaged & bent upward.

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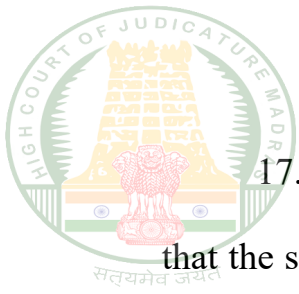
12.Insofar as the lorry is concerned, no damages were recorded.

13.It will also be relevant to take note of rough sketch which was marked as Ex.R.2

14.On a overall assessment of the evidence of PW.2, RW.1 and the above said documents, it is quite clear that the deceased was riding a two wheeler behind the car and the two wheeler had dashed on the rear (right) side of the car and the deceased lost balance and he fell to the right side and the lorry which was coming in the opposite direction ran over the deceased. This conclusion that has been arrived at by this Court is based on the careful assessment of the evidence.

15.In the light of the above finding, the contributory negligence of 30% fixed by the Tribunal does not suffer from any perversity. However, insofar as the negligence fixed on the car driver and the lorry driver, this Court is inclined to re-fix the negligence at 35% for the car driver and 35 % for the lorry driver.

16.The 70% negligence fixed by the Tribunal is distributed to the car driver and the lorry driver in the above ratio.



17. Insofar as the quantum of compensation is concerned, this Court finds that the same is fair and reasonable and does not require the interference of this Court.

18. In the light of the above discussion, the appellant Insurance Company shall pay 35% of the compensation amount determined by the Tribunal along with interest and the balance 35% shall be paid by the 4th respondent Insurance Company along with interest. The appellant Insurance Companies shall deposit the compensation amount after deducting the amount already deposited along with interest within a period of four (4) weeks from the date of receipt of a copy of this judgment. Similarly, the 4th respondent Insurance Company shall deposit the compensation amount after deducting the amount already deposited along with interest within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants shall be entitled to withdraw the same.

19. In the result, this Civil Miscellaneous Appeal is partly allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

24-07-2026

Index: Yes/No
Speaking/Non-speaking order
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CMA No. 3254 of 2025



N.ANAND VENKATESH J.

KP

To

The Motor Accidents Claims Tribunal,
Presiding Officer, Exclusive Motor Accident Claim Tribunal,
Dharmapuri.

CMA No. 3254 of 2025

24-07-2026