



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2026

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THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 435 of 2024

Dhamotharan
S/o.Kandasamy, No.116A, Rajeve Nagar,
Kadayur, Kangeyam Taluk, Tiruppur.

..Appellant(s)

Vs

1. M.Mahendran
S/o.Mandhiri, Rajiv Nagar, Kangayampalayam,
Vadachinnaripalayam Village,
Kangayam Taluk, Tiruppur District.
2. United India Insurance Company Ltd.,
Branch Office at Big Bazaar Street,
Dharapuram, Tiruppur – 638656.
3. Vellimalai
S/o.Lakshmanan, No.5/10, Mottaiyandipatti,
Pudukkottai, Manapparai, Tiruchy-621314.
4. P.S.K.Abbas
Kosikurichy, Manapparai, Tiruchy-621314.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to modify the award passed in MCOP No.1044/2023 dated 19.10.2023 by the Motor Accident Claim Tribunal/Sub Court at Kangeyam to the extent that the 2nd respondent shall pay the compensation amount as determined by the Tribunal along with interest at first instance and then recover the said amount from the 3rd respondent in accordance with law.



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For Appellant(s): Mr.K.Venkateswaran
For Respondent(s): R1 – Addressee moved
Mr.J.Michael Visuvasam For R2
R3 – Died
R4 – No such person

JUDGMENT

This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, Sub Judge, Kangeyam in M.C.O.P.No.1044 of 2018, dated 19.10.2023, wherein the claimant is questioning the Insurance Company being exonerated from the liability and fixing the entire liability on the third respondent.

2. The case of the claimant is that on 24.04.2016, the claimant was travelling in a two-wheeler as a pillion rider on the Kangeyam – Kudhiraipallam Road, and at about 8.00 p.m., the two-wheeler driven by the third respondent was driven in a rash and negligent manner and dashed against the two-wheeler in which the claimant was travelling, and as a result of which, the claimant fell down and sustained serious injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal.

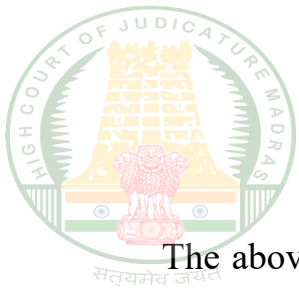
3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that



the accident had taken place only due to the rash and negligent driving on the part of the third respondent and there was no negligence on the part of the first respondent and therefore, the Tribunal attributed the entire negligence on the third respondent and also the liability for payment of compensation. The Insurance Company was exonerated from the liability since the first respondent vehicle alone was covered by the insurance policy issued by the Insurance Company.

4. Having rendered the above finding, the Tribunal proceeded to fix the total compensation at Rs.1,47,692/- under the following heads:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Pain and Sufferings	Rs.30,000/-
2.	Transportation	Rs.3,000/-
3.	Medical Expenses	Rs.90,192/-
4.	Food and Nutrition expenses	Rs.5,000/-
5.	Attender charges	Rs.7,500/-
6.	Loss of Income	Rs.12,000/-
	Total	Rs.1,47,692/-



The above compensation was directed to be paid along with interest at the rate of 7.5% per annum by the third respondent. Aggrieved by the same, the claimant has filed the present appeal before this Court.

5. This Court heard Mr.K.Venkateswaran, learned counsel appearing on behalf of the claimant and Mr.J.Michael Visuvasam, learned counsel appearing on behalf of the second respondent.

6. This Court carefully considered the submissions made by the learned counsel on either side and the materials available on record. This Court also carefully went through the award passed by the Tribunal.

7. The main ground that was urged by the learned counsel for the appellant is that the Tribunal ought to have applied the principle of “pay and recovery” in this case, since the claimant is only a pillion rider and a third party, and more than one vehicle was involved in the accident, and therefore, the claimant is entitled to claim compensation against any of the vehicle.

8. Per contra, the learned counsel appearing on behalf of the second respondent submitted that the finding of the Tribunal is to the effect that the negligence is only on the part of the third respondent. Admittedly, the second

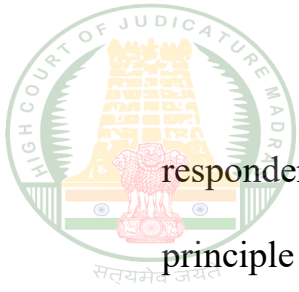


respondent has not provided any insurance cover to the vehicle of the third respondent. Therefore, it is contended that the second respondent cannot be made liable to pay compensation for the negligence on the part of the third respondent.

9. In the case in hand, the claimant was travelling as a pillion rider in the two-wheeler belonging to the first respondent. Admittedly, the second respondent has provided insurance cover only to the vehicle belonging to the first respondent. The witnesses who were examined on the side of the claimant, namely, P.W.1 and P.W.2, specifically admitted that there was absolutely no negligence on the part of the first respondent and the entire negligence was attributable only to the third respondent. This was considered in detail by the Tribunal, and the Tribunal rendered a finding that the accident had taken place only due to the negligence on the part of the third respondent.

10. The above finding rendered by the Tribunal is upon appreciation of the evidence and does not suffer from any perversity warranting interference by this Court.

11. In the light of the above finding, there is no question of directing the second respondent – Insurance Company to pay the compensation amount to the claimant. There is absolutely no privity of contract between the second



respondent – Insurance Company and the third respondent. Therefore, even the principle of “pay and recover” cannot be applied. Hence, the award passed by the Tribunal is perfectly in order and does not warrant interference by this Court.

12. In the result, the Civil Miscellaneous Appeal stands dismissed. No costs.

15-07-2026

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

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To:

1. The Sub Judge,
Motor Accident Claims Tribunal,
Kangeyam.

2. The Section Officer,
V.R.Section,
High Court of Madras.



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N.ANAND VENKATESH J.

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