



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-07-2026

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**CMA No. 472 of 2023
and CMP No.3962 of 2023**

Cholamandalam Ms General Insurance
Company Limited
2nd Floor, Dare House,
No.2, NSC Bose Rd, George Town,
Chennai 600 001.

..Appellant(s)

.Vs.

1. M.Radha
W/o Late Muthukumaran

2.M.Divyalakshmi Minor
D/o Late Muthukumaran

3.S.Ugandhar
S/o Shankar

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, appeal against the Judgement and Decree made in MCOP.No. 3508 of 2019, dated 17.10.2022 on the file of the Motor Accident Claims Tribunal, Chief Court of Small Causes, Chennai.

For Appellant(s): Ms.C.Harini
for M/s.M.B.Gopalan Associates

For Respondent(s): Mr.F.W.H.P.Thasan
for Mr.K.Arunagiri
for R1 & R2

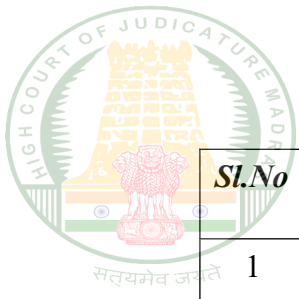


JUDGMENT

This appeal has been filed by the Insurance Company against the award passed by the Motor Accident Claims Tribunal, Chief Court of Small Causes, Chennai in MCOP No.3508 of 20219, dated 17.10.2022.

2.The 1st respondent is the mother and the 2nd respondent is the minor sister of the deceased Sathish Kumar. The case of the claimants is that on 30.04.2019, the deceased was travelling in a Tata ace goods vehicle along with his colleagues from Chennai to Kancheepuram and this vehicle was loaded with advertisement boards. At about 3.30 a.m, when the vehicle was near Keela Oottivakkam, had rammed on the tamarind tree due to the rash and negligent driving on the part of the driver of the Tata ace vehicle and on its impact the deceased was thrown out of the vehicle and he sustained grievous injuries and died on the way to the hospital. It is under these circumstances, the claim petition came to be filed before the Tribunal.

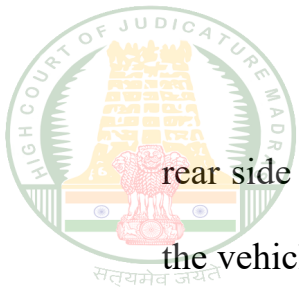
3.The Tribunal on, considering the facts and circumstances of the case and on appreciation of evidence came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the Tata ace vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.17,00,800/- under the following heads:



<i>Sl.No</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1	Towards Loss of Income/Dependency Rs.14,000 x 12 x 18 x 2/3	20,16,000.000
2	Towards Loss of Estate	15,000.00
3	Towards Loss of Consortium Rs.40000(each) x 2	80,000.00
4	Towards Funeral Expenses	15,000.00
	Total Compensation :	21,26,000.00
	LESS: 20% Contributory Negligence :	4,25,200.00
	Compensation payable :	<u>17,00,800.00</u>

4.The Tribunal attributed 20% contributory negligence against the deceased on the ground that the deceased was sleeping on the top of the advertisement boards kept on the rear side of the goods vehicle and the same led to the deceased being thrown out of the vehicle after it dashed the tamarind tree. The Tribunal directed the Insurance Company to pay compensation of Rs.17,00,800/- along with interest at the rate of 7.5% p.a. Aggrieved by the same, the present appeal has been filed by the Insurance Company.

5.The main ground that was urged by the learned counsel for the appellant is that the deceased was travelling in the vehicle as a passenger and the insurance policy only covers two persons including the driver and apart from the deceased, three more persons were travelling in the same vehicle. It is further contended that the entire negligence is attributable to the deceased since the deceased was sleeping on the top of the advertisement boards kept on the



rear side of the goods vehicle and he fell down due to the impact created when the vehicle rammed on the tamarind tree. The learned counsel further submitted that the Tribunal ought to have deducted 1/2 towards personal expenditure of the deceased since he was a bachelor.

6.Per contra, the learned counsel for the respondents submitted that the deceased was travelling in a goods vehicle and he was an authorised person, who is entitled for cover under the policy. It is further submitted that the compensation fixed by the Tribunal is just and reasonable and the same does not require the interference of this Court.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.In the case in hand, the policy issued by the appellant Insurance Company covered the driver and an authorised occupant in the goods vehicle. It is contended that apart from the vehicle being loaded with advertisement boards, nearly four persons were travelling in the same vehicle apart from the driver. It is therefore contended that the deceased must only be considered as an unauthorised passenger who is not covered under the policy.

9.This Court directed the learned counsel for the appellant to take instructions as to whether any other claim petitions has been filed by the other



occupants of the vehicle apart from the present claim petition. On instructions, the learned counsel for the appellant submitted that apart from this claim petition, no other claim petition has been filed by any other occupants of the vehicle.

10.The vehicle in question was a goods vehicle and it is clear from the evidence that the deceased had travelled along with the goods. The policy covered two persons including the driver and hence the claimant can be held to be an authorised person travelling along with the goods and the liability of the Insurance Company can be confined only to the claimant based on the policy. Useful reference can be made to the judgment of the Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Cholleti Bharatamma & Others** reported in **2008 1 SCC (CrI) 2024**.

11.In view of the above, this Court holds that the finding of the Tribunal by making the Insurance Company liable to pay the compensation to the claimants based on the policy issued by the appellant Insurance Company, does not suffer from any perversity warranting the interference of this Court.

12.Insofar as the compensation that has been fixed by the Tribunal, this Court finds it to be just and reasonable and it does not warrant the interference of this Court.



13. In the light of the above discussion, the award passed by the Motor Accident Claims Tribunal, Chief Court of Small Causes, Chennai in MCOP No.3508 of 2019, dated 17.10.2022, is hereby confirmed and this Civil Miscellaneous Appeal is allowed. The Insurance Company has already deposited 50% of the award amount along with interest. Hence, the balance amount shall be deposited by the Insurance Company within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents shall be permitted to withdraw in the proportion fixed by the Tribunal. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

21-07-2026

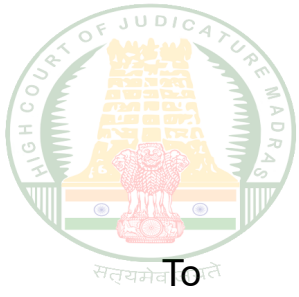
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To
The Motor Accident Claims Tribunal
Chief Court of Small Causes, Chennai.



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N.ANAND VENKATESH J.

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CMA No. 472 of 2023

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