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CMA.No.578 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.578 of 2023
& CMP.No.4897 of 2023

The National Insurance Co.Ltd.,
No.165, Nethaji Road,
Manjakuppam, Cuddalore.

...Appellant

Vs

1. S.Sathishkumar
S/O.Selvam,
Vanniyar Street, Kottakkarai,
Parvathipuram, Vadalur,
Cuddalore Taluk.
2. S.Senthil Kumar
S/O.Selvam,
Vanniyar Street, Kottakkarai,
Parvathipuram, Vadalur,
Cuddalore Taluk.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the award dated 22.3.2019 made in MCOP No.2430 of 2012
on the file of the Motor Accident Claims Tribunal (Principal
Subordinate Judge) at Cuddalore.



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For Appellant:
For Respondents:

Ms.R.Sree Vidhya
Court notice sent returned
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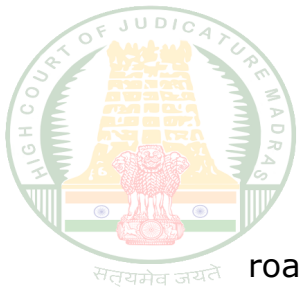
JUDGMENT

This appeal has been filed by the appellant – Insurance Company against the award dated 22.3.2019 made in MCOP.No. 2430 of 2012 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Court), Cuddalore (for short, the Tribunal below) questioning their liability to pay compensation.

2. Heard the learned counsel for the appellant – Insurance Company. The first respondent - claimant was served with notice since the intimation has been delivered and he has not chosen to contest the appeal. The second respondent – owner of the vehicle remained ex parte before the Tribunal below. Hence, notice to him is dispensed with.

3. The facts leading to filing of this case are as follows:

(i) On 16.8.2012, the first respondent - claimant was riding a two wheeler at Kurinjipadi and all of a sudden, a cyclist crossed the



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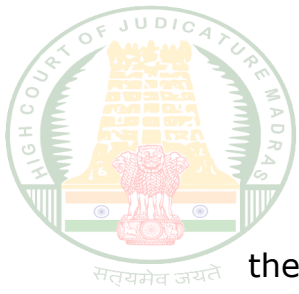
road, as a result of which, the two wheeler dashed on the cycle and the claimant as well as the cyclist sustained injuries. The cyclist, who was injured, filed MCOP.No.2425 of 2012 and the injured, who had driven the two wheeler, filed MCOP.No.2430 of 2012.

(ii) The Tribunal below, on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the claimant, who had driven the two wheeler.

(iii) Having rendered the above finding, the Tribunal below fixed the total compensation under the following heads:

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	3% permanent disability	Rs.21,384/-
2	Pain and suffering	Rs. 5,000/-
3	Loss of amenities	Rs.10,000/-
4	Loss of income for 3 months	Rs. 9,900/-
5	Attendant charges	Rs. 5,000/-
6	Transportation charges	Rs. 5,000/-
7	Extra nourishment	Rs. 5,000/-
	<i>Total</i>	<i>Rs.61,284/-</i>

(iv) The above total compensation amount was directed to be paid by both the appellant – Insurance Company as well as the second respondent – owner of the vehicle together with interest at



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the rate of 7.5% per annum from the date of claim petition till the date of deposit. Aggrieved by that, the appeal has been filed by the Insurance Company.

4. This Court has carefully considered the submissions of the learned counsel for the appellant and perused the materials available on record and more particularly the impugned award.

5. The main ground that was urged on the side of the appellant – Insurance Company is that the first respondent – claimant was a tortfeasor in this case, that the first information report was registered against him and that therefore, he would not be entitled for payment of any compensation.

6. The ground that was raised by the learned counsel appearing for the appellant – Insurance Company is squarely covered by the judgment of this Court in the case of ***United India Insurance Co. Ltd., Chennai Vs. Ravi & another [reported in 2010 (5) MLJ 406]***.



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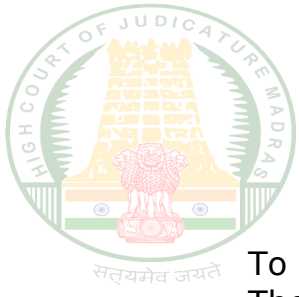
7. The first respondent – claimant was the borrower of the vehicle and he was also a tortfeasor in this case. Therefore, even Section 163A of the Motor Vehicles Act, 1988 cannot be invoked and no compensation is payable to the first respondent – claimant.

8. In the light of the above discussions, the finding of the Tribunal below fixing the liability on the appellant – Insurance Company is liable to be set aside. This Court holds that the appellant – Insurance Company is not liable to pay compensation to the first respondent – claimant, who was the borrower of the vehicle and tortfeasor.

9. Accordingly, the civil miscellaneous appeal is allowed and the award dated 22.3.2019 made in MCOP.No.2430 of 2012 on the file of the Tribunal below is set aside. It is made clear that the entire amount deposited by the appellant – Insurance Company is permitted to be withdrawn together with accrued interest. Consequently, the connected CMP is closed.

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The Motor Accidents Claims Tribunal/
Principal Sub-Court, Cuddalore.

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N.ANAND VENKATESH,J

RS

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