



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2026

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THE HON'BLE MR JUSTICE N. ANAND VENKATESH

**CMA No. 1016 of 2024
AND
CMA NO. 1117 OF 2024**

CMA No. 1016 of 2024:

Prabhu
S/o. Dharmaraj, C/o. Raja,
No. 26, N.G.G.O. Colony, 1st Street,
Erode – 9.

...Appellant(s)

Vs

1. Thiyaneswharan
S/o. Chinnasamy, No.6, Kanakkampalayam,
Pattakaranpalayam, Perundurai Taluk, Erode.
2. The United India Insurance Co. Ltd.,
No. 53/4, Old Bus Stand Road,
TCR Corner Building, Perundurai 638 052.
3. S.Sridhar,
S/o. Sankaran, No. 30, Thiagaraja Nagar,
5th South Street, Palayamkottai,
Tirunelveli District - 627 011.

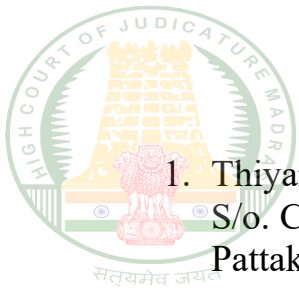
..Respondent(s)

CMA No. 1117 of 2024:

Deepa
W/o. Prabhu, C/o. Raja,
No.26, N.G.G.O. Colony, 1st Street, Erode 9.

..Appellant(s)

Vs



1. Thiyaneswharan
S/o. Chinnasamy, No.6, Kanakkampalayam,
Pattakaranpalayam, Perundurai Taluk, Erode.

2. The United India Insurance Co. Ltd.,
No.53/4, Old Bus Stand Road,
TR Corner Building, Perundurai - 638 052.

3. S. Sridhar
S/o. Sankaran, No.30, Thiagaraya Nagar,
5th South Street, Palayamkottai,
Tirunelveli District - 627 011.

..Respondent(s)

CMA No. 1016 of 2024

PRAYER: To enhance and modify the award made in M.C.O.P.No.267 of 2017 dated 04.10.2023 on the file of the Special District Judge (To deal with MCOP Cases) Erode by directing the 2nd Respondent Insurance Company to pay the award amount to the Appellant herein.

CMA No. 1117 of 2024

PRAYER: To enhance and modify the award made in M.C.O.P.No.268 of 2017 dated 04.10.2023 on the file of the Special District Judge (To deal with MCOP Cases), Erode by directing the 2nd Respondent Insurance Company to pay the award amount to the Appellant herein and thus render justice.

For Appellant(s) in : Mr.C.Santhosh Kumar
both appeals:

For Respondent(s) in : Mr.C.E.Pratap For R 1
both appeals: Mr.R.Rajesh For R2

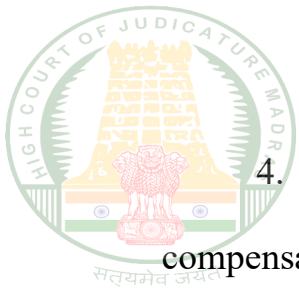


COMMON JUDGMENT

The issue involved in both the appeals are common and hence taken up together, heard and disposed of through this common judgment.

2. The appellants, who are the husband and wife, are the claimants. They filed independent claim petitions in M.C.O.P.Nos.267 & 268 of 2017 on the ground that on 11.04.2016, the husband was riding the two-wheeler and the wife was travelling as a pillion rider from Coimbatore to Erode and at about 4.00 p.m., when the two-wheeler was nearing Mettukadai Naal road, the offending vehicle, which was a car, was driven in a rash and negligent manner and it hit the two-wheeler, as a result of which, both the husband and wife sustained grievous injuries. An FIR came to be registered against the driver of the car in Crime No.171 of 2016. It is under these circumstances, independent claim petitions came to be filed before the Tribunal.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of the 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 car.



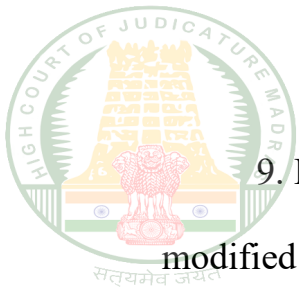
4. Having rendered the above finding, the Tribunal also fixed the total compensation at Rs.6,82,944/- in so far as M.C.O.P.No.267 of 2017 and a sum of Rs.44,186/- in so far as M.C.O.P.No.268 of 2017 and this amount was directed to be paid with interest at the rate of 7.5% per annum.

5.The Tribunal rendered a finding that since the driver of the offending vehicle did not possess a valid driving licence, the Insurance Company cannot be made liable to pay the compensation and accordingly directed the owner of the vehicle to pay the compensation.

6.These appeals have been filed seeking modification of the common order passed by the Tribunal by applying the principle of pay and recovery.

7. This Court heard the learned counsel for the appellant and the learned counsel for the respondents.

8.The issue involved in the present case is squarely covered by the Judgement of the Hon'ble Apex court in ***National Insurance Company Limited vs. Swaran Singh and Others*** reported in **2004 (3) SCC 297**. The Apex Court has categorically held that in a case of this nature, the pay and recovery principle has to be applied and the compensation has to be paid by the Insurance Company and it can be recovered from the owner of the vehicle.



9. In the light of the above discussion, the award passed by the Tribunal is modified to the effect that the second respondent Insurance Company shall pay the compensation amount fixed by the Tribunal along with accrued interest at the rate of 7.5% per annum to the appellants within a period of eight (8) weeks from the date of receipt of a copy of this judgment. On such payment, the amount can be recovered from the owner of the vehicle namely the first respondent by directly filing an Execution Petition. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

10. In the result, the Civil Miscellaneous Appeals are allowed with the above terms. No costs.

01-07-2026

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

To:

1.The Special District Judge, Motor Accident Claims Tribunal,
Erode.

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



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CMA Nos.1016 & 1117 of 2



N.ANAND VENKATESH J.

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