



C.M.A.No.1073 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 16.07.2026**

CORAM:

**THE HON'BLE MR. JUSTICE N. ANAND VENKATESH**

**C.M.A.No.1073 of 2025**  
**and C.M.P.No.8884 of 2025**

United India Insurance Company Limited,  
No.134, Silingi Buildings,  
Greens Road, Chennai – 600 006.

... Appellant

Vs.

1. S.Kalaiselvi
2. S.Raja Durai
3. S.Shamini
4. S.Thambi Durai
5. S.Roshini Priya
6. P.Makesh

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 11.07.2024 made in MCOP No.6619 of 2019 on the file of the Motor Accidents Claims Tribunal (Chief Judge, Court of Small Causes), Chennai.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mrs.R.J.Radhika for R1 to R5

**JUDGMENT**

This civil miscellaneous appeal has been filed by the Insurance Company against the award passed by the learned Chief Judge, Court of



C.M.A.No.1073 of 2025

Small Causes, Motor Accidents Claims Tribunal, Chennai, in MCOP

WEB.COM No.6619 of 2019 dated 11.07.2024, questioning their liability to pay compensation to the claimants.

2. The first claimant is the wife and claimants 2 to 5 are the children of the deceased, Sami Durai. The case of the claimants is that on 01.09.2019, the deceased, Sami Durai, was travelling as a pillion rider on a two wheeler driven by the sixth respondent herein and at about 12.15 hours, near the Vazhuthalaikudi Kulam, an unknown vehicle came from the opposite direction in a rash and negligent manner and in order to avoid dashing against that vehicle, the sixth respondent, the rider of the vehicle in which the deceased was travelling, swerved his vehicle, lost his control and fell down along with the deceased. As a result, the deceased sustained grievous injuries and succumbed to his injuries on 02.09.2019. A First Information Report came to be registered in Crime No.237 of 2019 against the unknown accused person. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3. The appellant/Insurance Company filed a counter and took a stand that the deceased was a pillion rider and the accident had taken place only due to the carelessness/negligence on the part of the rider of the two

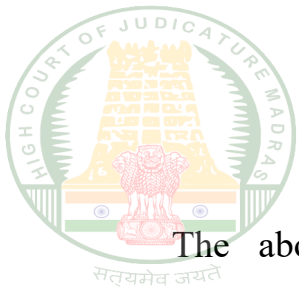


wheeler and accordingly, the Insurance Company sought for the dismissal of the claim petition.

4. 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 rider of the unknown vehicle. Since the sixth respondent did not possess a valid driving license, the 'pay and recover' order was passed.

5. Having rendered the above finding, the Tribunal proceeded to fix the total compensation at Rs.16,02,200/- under various heads as follows:

| <i>S.No.</i> | <i>Heads</i>                                                    | <i>Compensation awarded by the Tribunal (in Rs.)</i> |
|--------------|-----------------------------------------------------------------|------------------------------------------------------|
| 1.           | Loss of Dependency                                              | 13,36,500                                            |
| 2.           | Medical Expenses                                                | 25,692                                               |
| 3.           | Loss of Estate                                                  | 15,000                                               |
| 4.           | Loss of Consortium                                              | 2,00,000                                             |
| 5.           | Funeral Expenses                                                | 15,000                                               |
| 6.           | Transportation Charges including damages to personal belongings | 10,000                                               |
| Total        |                                                                 | 16,02,192                                            |
| Rounded off  |                                                                 | 16,02,200                                            |



C.M.A.No.1073 of 2025

The above compensation amount was directed to be paid by the appellant/Insurance Company together with interest at the rate of 7.5% per annum. Aggrieved by the same, the present appeal has been filed by the Insurance Company.

6. The bone of contention on the side of the appellant/Insurance Company is that as per the First Information Report marked as Ex.P2, the negligence was attributed against the rider of the unknown vehicle and this FIR was registered based on the complaint given by the sixth respondent herein and whereas, the claimants have now come up with a different story, as if the negligence was on the part of the sixth respondent herein. It is contended that the sixth respondent was the tortfeasor in this case and therefore, there is no question of invoking Section 166 of the Motor Vehicles Act and at the best, the petition can be treated as one filed under Section 163A of the Motor Vehicles Act and the compensation can be granted under the structured formula.

7. Per contra, the learned counsel for the claimants submitted that the complaint given by the sixth respondent is a self serving complaint and it cannot be taken to be the gospel truth. The learned counsel, by relying



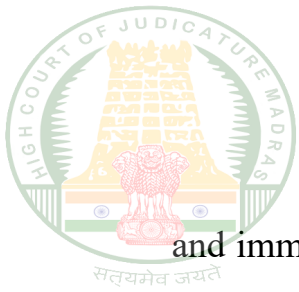
C.M.A.No.1073 of 2025

on the evidence of PW2, the eye witness to the incident, submitted that there was certainly negligence on the part of the sixth respondent. The evidence of PW2 has not been discredited by the Insurance Company and in the absence of any contra evidence, it is contended that the finding rendered by the Tribunal does not suffer from any perversity warranting the interference of this Court.

8. Learned counsel further submitted that there are totally five claimants in this case and in any event, the Tribunal has only ordered 'pay and recover', therefore, whatever compensation is paid by the Insurance Company, it can be recovered from the owner of the vehicle. She strongly relied upon the Accident Register marked as Ex.P1 and also the evidence of PW2, who is the eye witness.

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

10. In the case in hand, the sixth respondent had ridden an unregistered two wheeler on which the deceased travelled as a pillion rider

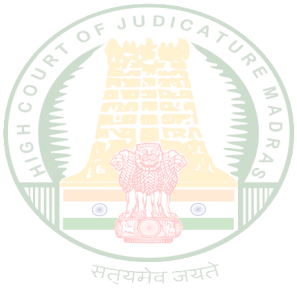


and immediately after the accident, the deceased was rushed to the hospital.

A reading of the Accident Register, marked as Ex.P1, states that the two wheeler ridden by the sixth respondent swerved to avoid another two wheeler coming from the opposite direction, resulting in the accident. The evidence of PW2 is almost the same.

11. In the case before this Court, on the one hand, an unregistered vehicle was used on the road and the FIR registered talks about the negligence on the part of the rider of the unknown vehicle. On the other hand, there is the evidence of an eye witness, examined as PW2, which is corroborated by the Accident Register, ExP1.

12. This Court took into consideration the stand taken by the appellant/Insurance Company to the effect that the tortfeasor is the sixth respondent and therefore, the liability cannot be fixed on the Insurance Company, atleast under Section 166 of the Motor Vehicles Act. Per contra, this Court also took into consideration the fact that the deceased left behind five dependents, among whom the first claimant, the wife of the deceased, was entirely dependent on him.



C.M.A.No.1073 of 2025

13. If, ultimately, the case is brought under Section 163A of the Motor Vehicles Act, a sum of Rs.5 lakhs can be ordered under the structured formula. However, there is the evidence of PW2, an eye witness who speaks about the incident. In view of the above, this Court suggested that considering the interest of both parties, the compensation can be frozen at Rs.10,00,000/-, payable with interest. The counsel on either side submitted that such an order can be passed as an order of this Court.

14. Considering the peculiar facts of this case and in order to balance the rights of both parties, this Court is inclined to fix the total compensation at Rs.10,00,000/-, payable with interest at the rate of 7.5% per annum.

15. The entire award amount has already been deposited by the appellant/Insurance Company along with interest. In view of the same, the claimants will be entitled to withdraw the compensation fixed by this Court, along with interest in the proportion fixed by the Tribunal, on due application. The balance amount can be withdrawn by the appellant/Insurance Company.



C.M.A.No.1073 of 2025

16. The other directions issued by the Tribunal with regard to the mode of payment of compensation remain unaltered. It goes without saying that the Tribunal has already invoked the principle of 'pay and recover' and the same is sustained.

17. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

**16.07.2026**

Neutral Citation: Yes/No  
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To

1. The Chief Judge,  
Court of Small Causes,  
Motor Accidents Claims Tribunal,  
Chennai.
2. The Section Officer,  
VR Section,  
High Court of Madras.



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C.M.A.No.1073 of 2025

**N. ANAND VENKATESH, J.**

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***16.07.2026***