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CMANo.1246 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.1246 of 2025
& CMP.No.10340 of 2025

Royal Sundaram Alliance
Insurance Company Limited,
45 and 46, Whites Road,
Chennai - 2.

...Appellant

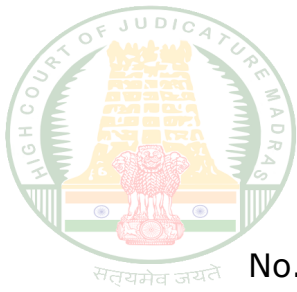
Vs

1. V. Balaji
S/o. Vittal Rao,
Residing at No.152,
Long Bazar, Vellore – 632004.
2. M/s.Lucas TVS Limited
Pondichery Division, Eripakkam,
Nettapakkam, Commune Pondicherry.
3. M.Suresh Babu, S/o. Muniappan,
No.4, Maraimalai Adigalar,
3rd Cross Street, Sainathapuram,
Vellore - 632001.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act against
the order and decretal order dated 22.11.2024 made in MCOP

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No.162 of 2013 on the file of Motor Accidents Claims Tribunal, Chief
Judicial Magistrate (FAC), Vellore.

For Appellant:	Mr.S.Srinivasan
For Respondents:	Mr.R.Dilli Kumar for R1
	R2 - REFUSED
	R3 - LEFT

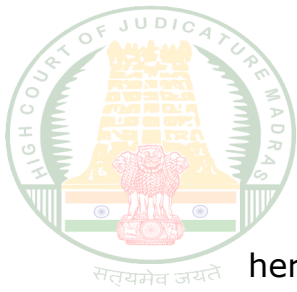
JUDGMENT

This appeal has been filed by the appellant – Insurance Company challenging the award dated 22.11.2024 made in MCOP No.162 of 2013 on the file of Motor Accidents Claims Tribunal, Chief Judicial Magistrate (FAC), Vellore (Tribunal below).

2. Heard the learned counsel for the appellant – Insurance Company and the learned counsel appearing for the first respondent herein – claimant.

3. The facts leading to filing of this appeal is as follows:

(i) On 28.3.2013, the first respondent herein - claimant was riding a two wheeler at Ussoor – Vellore Road and at about 9.30 PM, the offending vehicle, which was owned by the second respondent



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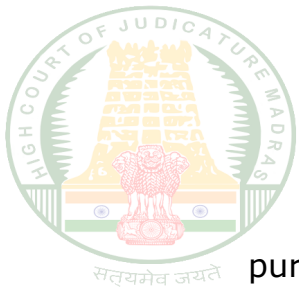
herein and was driven in a rash and negligent manner by the third respondent herein, dashed against the two wheeler, as a result of which, the first respondent herein – claimant sustained the following injuries:

"Closed proximal third and ankle with impending compartment syndrome closed left middle third clavicle fracture."

(ii) A first information report (FIR) in Crime No.192 of 2013 came to be registered on the file of the Inspector of Police, Ariyur Police Station against the third respondent herein. It was under those circumstances, the claim petition came to be filed before the Tribunal below.

(iii) Considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, the Tribunal below 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 offending vehicle namely the third respondent herein.

(iv) Having rendered the above finding, the Tribunal below came to the conclusion that the owner of the vehicle as per the documents is the second respondent herein and that however, the third respondent herein entered appearance and admitted that he



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purchased the vehicle and had driven the same without a valid licence. While ordering pay and recovery, the Tribunal below made both the appellant herein as well as the second respondent herein jointly and severally liable to pay the total compensation and permitted them to recover the amount from the third respondent herein.

(v) Thereafter, the Tribunal below fixed the total compensation of Rs.2,29,204/- under the following heads :

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	<i>Disability</i>	<i>Rs. 90,000/-</i>
2	<i>Pain and suffering</i>	<i>Rs. 10,000/-</i>
3	<i>Extra nourishment</i>	<i>Rs. 10,000/-</i>
4	<i>Transport to hospital</i>	<i>Rs. 10,000/-</i>
5	<i>Damages to clothes</i>	<i>Rs. 2,000/-</i>
6	<i>Medical expenses</i>	<i>Rs. 91,871/-</i>
7	<i>Future medical expenses</i>	<i>Rs. 10,000/-</i>
8	<i>Attendant charges</i>	<i>Rs. 4,800/-</i>
9	<i>Loss of income</i>	<i>Rs. 16,000/-</i>
10	<i>Loss of amenities</i>	<i>Rs. 10,000/-</i>
	<i>Total</i>	<i>Rs. 2,54,671/-</i>
	<i>Less 10% towards contributory negligence</i>	<i>Rs. 25,467/-</i>
	<i>Total compensation</i>	<i>Rs. 2,29,204/-</i>

(vi) The above amount was directed to be paid by both the appellant – Insurance Company and the second respondent herein with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit with a further direction to recover the



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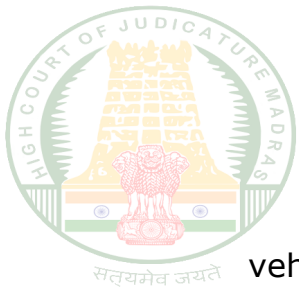
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amount from the third respondent herein. Aggrieved by that, the appellant – Insurance Company is before this Court.

4. Notice was served on the first respondent herein – claimant and he is represented through a counsel. In so far as the second respondent herein is concerned, notice that was sent has been refused to be received. Hence, there is a deemed service of notice on the second respondent herein. Further, the notice sent to the third respondent herein has been returned with an endorsement 'left'.

5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned award.

6. In the case in hand, admittedly, the RC book stands in the name of the second respondent herein. Therefore, the second respondent herein continues to be owner of the vehicle. The third respondent herein entered appearance before the Tribunal below and stated that he purchased the vehicle and he only drove the



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vehicle without licence. Based on that, the Tribunal below ordered for recovery from the third respondent herein after paying the compensation amount to the first respondent herein – claimant.

7. It is now too well settled that till the RC book is changed to the name of the subsequent purchaser of the vehicle, the original owner will continue to be liable for payment of compensation. Hence, the liability will be only on the second respondent herein. Unfortunately, the second respondent herein remained ex parte before the Tribunal below and in this appeal before this Court, the second respondent herein has even refused to receive the notice. At best, the third respondent herein can be considered to be a driver of the offending vehicle without a valid licence.

8. In view of the above, this Court is inclined to interfere with the finding of the Tribunal below to the effect that the appellant – Insurance Company can recover the compensation from the third respondent herein. Instead, this Court is inclined to permit the appellant – Insurance Company to recover the compensation from the second respondent herein.



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9. The Tribunal below fixed 10% contributory negligence on the part of the first respondent herein – claimant on the ground that he did not wear a helmet.

10. The mere fact that the first respondent herein – claimant did not wear a helmet does not automatically lead to attributing the contributory negligence. Hence, this Court is inclined to set aside the finding rendered by the Tribunal below with regard to attributing 10% contributory negligence on the part of the first respondent herein – claimant.

11. In the light of the above discussions, the above civil miscellaneous appeal is allowed and the award dated 22.11.2024 passed in MCOP.No.162 of 2013 on the file of the Tribunal below is set aside. The entire compensation of Rs.2,54,671/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit shall be payable by the appellant – Insurance Company to the first respondent herein – claimant. At this juncture, it is brought to the notice of this Court that the entire amount awarded by the Tribunal below has been deposited together with



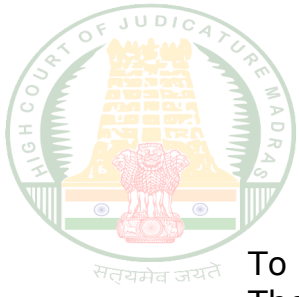
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interest pursuant to the interim order granted on 28.4.2025 in CMP. No.10340 of 2025. As a consequence, while depositing the amount along with accrued interest, the appellant – Insurance Company would have deducted 10% towards contributory negligence on the part of the first respondent herein – claimant. Since the finding with regard to fixing 10% contributory negligence on the part of the first respondent – claimant is set aside in this judgment, the balance 10% of the compensation awarded by the Tribunal below together with accrued interest shall be deposited by the appellant – Insurance Company within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent will be entitled to withdraw the entire amount together with accrued interest. It is made clear that the appellant – Insurance Company is entitled to recover the compensation amount together with interest from the second respondent herein. No costs. Consequently, the connected CMP is closed.

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The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate (FAC), Vellore

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N.ANAND VENKATESH,J

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CMP.No.10340 of 2025**

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