



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2026

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1523 of 2025
and CMP No.13400 of 2025

Cholamandalam MS General Insurance Co., Ltd.,
Shaw Wallace Building,
2nd Floor, Thambu Chetty,
Chennai – 600 001

..Appellant

.vs.

1.U.Kavin

2.P.Ramesh

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 11.12.2024 made in MCOP No.3135 of 2021, on the file of the Motor Accident Claims Tribunal, Special Court II, Chennai.

For Appellant : Ms.R.Sree Vidhya

For Respondents : Mr.K.Balaji for R1

JUDGMENT

This appeal has been filed by the Insurance Company against the Award passed by the MACT, Special Court II, Chennai, in MCOP No.3135 of 2021,

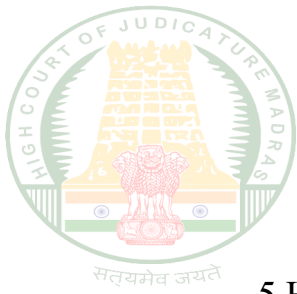


dated 11.12.2024, mainly on the ground that the Tribunal failed to apply the principle of pay and recovery in this case.

2.The 1st respondent is the claimant. The case of the claimant is that on 15.07.2021, the claimant who is a minor was traveling as a pillion rider in the two wheeler at Singaperumalkoil-Oragadam road and at about 19.30 hours, the offending vehicle which was a TATA Ace van was driven in a rash and negligent manner and it dashed on the two wheeler. As a result of which, the claimant fell down and sustained fracture both bone left leg and other serious injuries all over the body. 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 rider of the offending vehicle was a minor and did not possess a valid driving license. Accordingly, the Insurance Company sought for the dismissal of the claim petition or in the alternative, exonerate them from the liability.

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 driver of the offending vehicle.



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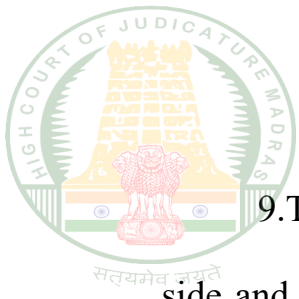
5. Having rendered the above finding, the Tribunal fixed the total compensation of Rs.3,26,249/- under various heads as follows:

Compensation awarded under the head	Amount (in Rs.)
Medical Expenses and Medical Bills	1,71,249
For Transportation Charges	10,000
For Extra Nourishment	10,000
For Attender Charges	10,000
For Loss of Income	1,00,000
For Pain and Sufferings	25,000
Total	3,26,249

6. The above compensation was directed to be paid along with interest at the rate of 7.5% per annum.

7. Aggrieved by the same, the present appeal has been filed by the Insurance Company.

8. Heard the learned counsel for the appellant and the learned counsel appearing on behalf of the respondents.



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

10. In the case in hand, the policy was issued before the amendment and the accident had also taken place before the amendment came into force. On the side of the Insurance Company, they have examined RW2 from the Regional Transport Office to establish that the driver of the offending vehicle did not possess a valid driving licence, the Tribunal however refused to believe such statement and fixed the entire liability on the Insurance Company.

11. The 2nd respondent has not contested this case and has chosen to remain ex-parte. The Insurance Company was able to establish that there was no valid driving licence for the driver of the offending vehicle. In view of the same, in the light of the judgment of the Apex Court in *National Insurance Co. Ltd. v. Swaran Singh* reported in (2004) 3 SCC 297, the Tribunal ought to have applied the principle of pay and recovery.

12. In the light of the above discussion, the finding of the Tribunal with regard to the negligence and the quantum of compensation is concerned, is hereby confirmed. Insofar as the liability is concerned, the appellant Insurance



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Company shall pay the compensation amount and recover the same from the 2nd respondent herein.

13.The 50% of the compensation has already been deposited by the appellant Insurance Company and this Court permitted the 1st respondent/claimant to withdraw a sum of Rs.1,71,249/- spent towards medical expenses by an order dated 19.06.2025. In view of the same, the balance shall be deposited, within a period of four weeks from the date of receipt of this judgment. On such deposit, the claimant shall be entitled to withdraw the same along with the accrued interest.

14.On the payment of compensation, the Insurance Company is entitled to recover the same from the owner of the offending vehicle.

15.In the result, this Civil Miscellaneous Appeal stands allowed in the above terms. No Costs. Consequently, connected miscellaneous petition is also closed.

16.07.2026

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
ssr



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N. ANAND VENKATESH., J

SSR

To

The Motor Accident Claims Tribunal, Special Court II, Chennai.

CMA No.1523 of 2025

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