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CMA No. 1144 of 2



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. 1144 of 2024

AND

CMP NO. 10360 OF 2024

The Branch Manager
The New India Assurance Co.Ltd., D.NO.39C By-
Pass Road, Dharmapuri Town, Dharmapuri District

..Appellant(s)

Vs

1. Prasanth
S/o. Jambu, D.No.2/96, Vanampatty Village,
Kattampatty Post, Palacode Taluk
2. P Pattappan
S/o. Perumal, D.No.6/114, East Pallakadu,
Thikkiyampalayam, Vazhapady Taluk, Salem
District

..Respondent(s)

CMA No. 1144 of 2024

To set aside the award dated 14th day of December,2022 made in
MCOP.No.246/2020 on the file of the Motor Accident Claims Tribunal/Chief
Judicial magistrate, Dharmapuri.

CMA No. 1144 of 2024

For Appellant(s): M/s.C.Ramesh Babu
A Salomi
S Pavithra
T Rara Nandhini

For Respondent(s): M/s D.Ramesh Kumar
For R1
R-2 P PATTAPPAN S/o. Perumal, D.No.6/114,
East Pallakadu, Thikkiyampalayam, Vazhapady
Taluk, Salem District



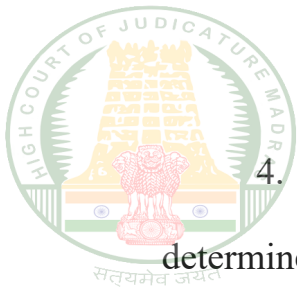
Judgment

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This appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal/ Chief Judicial Magistrate, Dharmapuri in MCOP No. 246 of 2020 dated 14.12.2022.

2. The 1st respondent is the claimant. The case of the 1st respondent is that on 10.06.2020, at about 8.00 Hrs., the 1st respondent along with two other individuals were travelling as a load man on a mini tipper lorry, at that point of time, the driver of the lorry drove the vehicle in a rash and negligent manner and applied sudden brakes at a hilly curve, as a result of which, the lorry capsized on the road. Consequently, the 1st respondent was taken to multiple hospitals for treatment. An FIR came to be registered in Crime No. 1008 of 2020. It is under these circumstances, the claim petition came to be filed before the tribunal.

3. 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 due to the rash and negligent driving on the part of the driver of the offending vehicle.



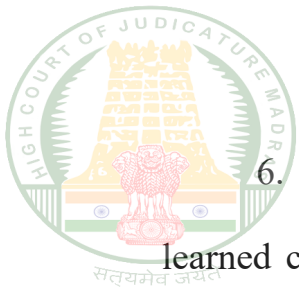
4. Having rendered the above finding, the Tribunal proceeded to determine the compensation amount in the following manner:

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<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of future income	Rs. 6,91,200/-
2.	Medical Bills	Rs. 2,88,417/-
3.	Transportation Charges	Rs. 30,000/-
4.	Pain and Suffering and Trauma	Rs. 40,000/-
5.	Special Diet	Rs. 15,000/-
6.	Other expenses	Rs.5,000/-
	Total	Rs.10,69,617/-

The above compensation amount of **Rs.10,69,617/-** was directed to be paid along with interest at the rate of 7.5% per annum from the date of the petition. However considering the fact that the driver of the offending vehicle did not possess a valid driving license, pay and recover was ordered.

5. The Insurance Company has filed the present appeal mainly on the ground that the driver of the offending vehicle did not possess a valid driving license and therefore, pay and recover ought not to have been ordered.



6. This Court carefully considered the submissions made by the learned counsel appearing for the appellant and also the award passed by the Tribunal.

7. The ground that was taken by the learned counsel appearing for the appellant is to the effect that the Tribunal ought not to have ordered for pay and recover. It is seen that the accident had happened after the amendment and the policy issued is before the amendment. The said ground is squarely covered by the judgment of the Apex Court in ***National Insurance Co. Ltd V. Swaran Singh and others reported in (2004) 3 SCC 297***. Hence, this Court does not find any illegality in the order passed by the Tribunal applying the principle of pay and recover.

8. Insofar as the quantum of compensation is concerned, this Court finds that the Tribunal has granted a just and reasonable compensation and it does not require the interference of this Court.

9. In the result, this Civil Miscellaneous Appeal stands dismissed. The appellant insurance company is directed to deposit the entire compensation along with accrued interest, if not already deposited and on such deposit being made, the claimants will be entitled to withdraw the compensation amount in



the proportion as fixed by the Tribunal. No costs. Consequently connected

Miscellaneous Petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RKA

To

The Motor Accident Claims Tribunal/Chief Judicial magistrate, Dharmapuri.



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N.ANAND VENKATESH J.

RKA

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