



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2026

WEB COPY

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

**S.A.No.843 of 2025
and C.M.P.No.32508 of 2025**

Chennai Metro Rail Limited,
Represented by its Chief General Manager,
No.11/6, Seethammal Road,
Alwarpet, Chennai – 600 018.

...Appellant

Vs.

1.A.Saravanan

2.M/s.Soma Enterprises Private Ltd.,
Rep. by its General Manager,
No.82-G, 1st Floor,
Panchali Ammal Kovil Street,
Arumbakkam, Chennai – 600 106.

3.Divisional Manager,
Oriental Insurance Co. Ltd.,
Divisional Office No.1,
P.B.No.11, 3rd Floor,
No.302 & 303, Oasis Plaza,
Tilak Road, Abids, Hyderabad – 500 001.

(Impleaded as per Order dated 31.07.2019 in
I.A.No.10 of 2019)

..Respondents

This Second Appeal has been filed under Section 100 of C.P.C praying to set aside the Judgment and Decree dated 09.01.2024 in A.S.No.92 of 2022 passed by XXII Additional City Civil Court, Allikulam, Chennai which confirms the Judgment and Decree dated 10.12.2018 in O.S.No.355 of 2011



passed by the learned VII Assistant City Civil Judge, Chennai in so far it directs the Respondent No.3 to recover the damages from the Appellant.

For Petitioner : Mr.Kishore Balasubramanian
For Respondent – 1 : Notice returned unserved with the endorsement, “No Such Door Number”
For Respondent – 2 : Service Awaited
For Respondent – 3 : Mrs.C.Harini
for Mr.N.Vijayaraghavan

JUDGMENT

This Second Appeal has been preferred by the Appellant seeking to set aside the Judgment and Decree dated 09.01.2024 in A.S.No.92 of 2022 passed by the learned XXII Additional Judge, City Civil Court, Allikulam, Chennai confirming the Judgment and Decree dated 10.12.2018 in O.S.No.355 of 2011 passed by the learned VII Assistant City Civil Judge, Chennai.

2. The brief facts of the case are as follows:

On 23.03.2010, 1st Respondent was travelling as a pillion rider in a motor cycle bearing Registration No.TN-021-K-5760 driven by his brother, Mr.Palani, proceeding towards Madhavaram 100 Feet Road. The 1st Respondent's brother is the owner of said motor cycle. At around 4.15 p.m., when the 1st Respondent and his brother reached near Radha Park Hotel nearby Arumbakkam, a heavy iron sheet with considerable weight, which was erected in the middle of the road for Chennai Metro Rail work with a writing Soma CMRL, fell on 1st



Respondent's right knee, due to which, his right leg was severely injured and a part of his right leg from the knee point was loosely hanging in a terrible manner. The 1st Respondent had sustained extensive and serious injuries with multiple fractures in his right leg. Immediately after the accident, the people who were in the accident spot had rescued the 1st Respondent and his brother and admitted them in a nearby hospital.

3. The 1st Respondent was advised for closed reduction and I.M nailing right tibia, by the Doctors. Since the 1st Respondent could not afford the said treatment, he opted for Ayurvedic/Siddha treatment. The 1st Respondent took treatment at Puthur, Andhra Pradesh for a period of 15 days. After the said treatment, his fractured bones have been joined together, but, he has not been cured completely. Therefore, he took Siddha treatment at Vichur Village near Red Hills. However, even after the said treatment, 1st Respondent has become permanently disabled.

4. The 1st Respondent was employed in a private courier service company and he was earning Rs.10,000/- per month. Due to the injuries sustained by him in the accident, he cannot resume his work as earlier. That apart, 1st Respondent is a married man and sole bread winner of his family. Therefore, his wife, child and aged father are depending upon his income.



5. According to 1st Respondent, the Chennai Metro Rail construction work is not undertaken with sufficient care and caution. The 2nd Respondent is a valid contractor employed by the Appellant in the construction work of Chennai Metro Rail project at Koyambedu limit.

6. At the time of accident, 1st Respondent and his brother Palani were not able to move physically and thus, they did not lodge a police complaint immediately after the accident. Thereafter, on 08.05.2010, 1st Respondent had lodged a police complaint before K-4 Anna Nagar Police Station. Based on his complaint, the Police Officials had registered a case in Crime No.263/AS2/2010.

7. Subsequently, 1st Respondent vide Legal Notices dated 22.05.2010 and 05.07.2010, called upon the Appellant and Respondents 2 & 3 to pay damages and compensation to the loss suffered by him. However, even after the receipt of said legal notices, neither the Appellant nor the Respondents 2 & 3 came forward to pay compensation to the 1st Respondent. Therefore, 1st Respondent had filed an original suit in O.S.No.355 of 2011 before the City Civil Court, Chennai. The Appellant herein is the 1st Defendant in the suit and 2nd Respondent is the 2nd Defendant in the suit. The reliefs sought in O.S.No.355 of 2011 are as follows:



“(a) For directing the Defendants to pay a sum of Rs.6,00,000/- as damages for permanent disability, bodily pain & sufferings, mental agony, the expenses incurred for medical treatment and extra nourishment;

(b) For directing the Defendants to pay interest from the date of suit till realization; and

(c) For costs of the suit.”

8. The averments in the Written Statement filed by Appellant/1st Defendant are as follows:

(i) The Chennai Metro Rail Limited has awarded the contract to 2nd Respondent/2nd Defendant for the construction of Koyambedu Depot. While the work is in progress, the accident occurred, for which, 2nd Respondent/2nd Defendant alone can be proceeded with and not the Appellant/1st Defendant. The 2nd Respondent/2nd Defendant has insured the entire project with the Oriental Insurance Company Limited. As the 2nd Respondent/2nd Defendant has insured the project with the said Oriental Insurance Company, Appellant/1st Defendant has no role with the accident occurred and injuries sustained by the 1st Respondent/Plaintiff.

(ii) The 1st Respondent/Plaintiff has not impleaded the Oriental Insurance Company as necessary party to the present suit and the suit is bad for non-jointer of necessary parties. The Appellant/1st Defendant is no way connected with the present suit.



9. The averments in the Written Statement filed by 2nd Respondent/2nd

Defendant are as follows:

(i) The 1st Respondent/Plaintiff lodged a report to Police after two months of the alleged incident only for the purpose of making a monetary claim.

(ii) The Legal Notices dated 22.05.2010 and 05.07.2010 sent by the 1st Respondent/Plaintiff were replied by the 2nd Respondent/2nd Defendant vide Reply dated 23.06.2010 and 05.08.2010 respectively. The 1st Respondent/Plaintiff intentionally suppressed the replies sent by the 2nd Respondent/2nd Defendant.

(iii) The accident has not happened as alleged by the 1st Respondent/Plaintiff and the entire project is fully insured with the Oriental Insurance Company Limited for any such alleged accident vide Policy No.431100/44/2010/71 and 3rd party liability is covered up to Rs.10 Crores and the insurance coverage is for the period from 12.06.2009 to 11.06.2011.

(iv) The 1st Respondent/Plaintiff is well aware of the insurance coverage, but, he failed to implead the Oriental Insurance Company as necessary party to the present suit. Therefore, the suit is liable to be dismissed for non-joinder of necessary party.

(v) The 1st Respondent/Plaintiff was negligent and because of the rash and negligent driving, he hit against the fencing and caused the accident. Therefore, 1st Respondent/Plaintiff is guilty of contributory negligence.



10. Subsequently, the Oriental Insurance Company was impleaded as 3rd

Respondent vide Order dated 31.07.2013 in I.A.No.10 of 2013.

WEB COPY

11. The averments in the Written Statement filed by 3rd Respondent/3rd Defendant are as follows:

(i) The 3rd Respondent/3rd Defendant does not admit the occurrence of accident on 23.03.2010 or the nature of injuries alleged to have been suffered by the 1st Respondent/Plaintiff.

(ii) The 3rd Respondent/3rd Defendant had issued a Contractors All Risk Insurance Policy to the 2nd Respondent/2nd Defendant for the period from 12.06.2009 to 11.06.2011. The liability of 3rd Respondent/3rd Defendant and admissibility of claim of 1st Respondent/Plaintiff is subject to the contractual policy terms and conditions.

(iii) The amount of compensation claimed by the 1st Respondent/Plaintiff is excessive and there is no basis for the same.

(iv) There are specific terms and conditions under the contract of insurance for compliance by 2nd Respondent/2nd Defendant such as immediate notice of any such accident or claim and submission of relevant records for consideration by the insurer. The 2nd Respondent/2nd Defendant has not complied with any such requirements and has committed breach of the terms of policy of insurance.



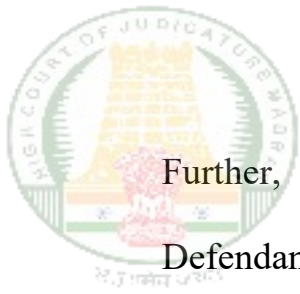
12. On the basis of above pleadings, the Trial Court had framed the following issues:

WEB COPY

- “1. Whether the Plaintiff is entitled for suit amount as prayed for?*
- 2. Whether the Plaintiff is entitled for interest as prayed for?*
- 3. To what other relief is the Plaintiff entitled to?”*

13. During the course of trial, on the side of Plaintiff, 1st Respondent/Plaintiff examined himself as P.W.1 and 9 documents were marked as Exs.A1 to A9. On the side of Defendants, 2 witnesses were examined as D.W.1 & D.W.2 and 2 documents were marked as Exs.B1 & B2.

14. Before the Trial Court, 1st Respondent/Plaintiff deposed that due to the injuries sustained by him in the accident, his right leg was badly affected and he could not discharge his duty as earlier. In order to substantiate his claim, 1st Respondent/Plaintiff had filed his X-ray Report (Ex.A1) and Discharge Summary (Ex.A2). The Appellant/1st Defendant deposed that the Chennai Metro Rail Limited has awarded contract to 2nd Respondent/2nd Defendant and 2nd Respondent/2nd Defendant had insured the project with 3rd Respondent/3rd Defendant. However, 3rd Respondent/3rd Defendant denied the manner of accident as described by the 1st Respondent/Plaintiff and deposed that the accident was happened due to the negligent act of 1st Respondent/Plaintiff.



Further, 3rd Respondent/3rd Defendant deposed that 2nd Respondent/2nd Defendant has not complied with the requirements of causing immediate notice of accident or claim and submission of relevant records are considered by the insurer.

15. On appreciation of the oral and documentary evidence produced before it, the Trial Court had held that the project of Defendants 1 & 2 was insured with 3rd Defendant and 2nd Defendant failed to inform about the details of accident to 3rd Defendant and also, failed to submit the claim form. Therefore, the Trial Court vide Judgment and Decree dated 10.12.2018, decreed the suit with costs and directed the 3rd Defendant to pay a sum of Rs.3,00,000/- to the Plaintiff towards permanent disability and medical treatment and thereafter, recover the said amount from the Defendants 1 & 2.

16. Aggrieved by the Judgment and Decree passed by the Trial Court, Appellant/1st Defendant had filed an Appeal Suit in A.S.No.92 of 2022 before the 1st Appellate Court. However, the learned 1st Appellate Judge vide Judgment and Decree dated 09.01.2024, dismissed A.S.No.92 of 2022 and confirmed the Judgment and Decree dated 10.12.2018 in O.S.No.355 of 2011 passed by the Trial Court. Hence, Appellant/1st Defendant has preferred the present Second Appeal before this Court.



17. This Court vide Order dated 19.12.2025, admitted this Second Appeal on the following substantial questions of law:

WEB COPY

“1. Whether the principal employer of an independent contractor could be made vicariously liable for the tortious acts committed by such independent contractor, with respect to a contract for service?

2. Whether the insurance company can be directed to pay the insurance amount and subsequently, recover the same from a stranger/third party to the insurance contract?”

18. The learned counsel for Appellant/1st Defendant submitted that Appellant/1st Defendant (principal employer) had awarded the contract to 2nd Respondent/2nd Defendant (independent contractor). The 2nd Respondent/2nd Defendant had insured the entire project with 3rd Respondent/3rd Defendant including any 3rd party accident liability arising thereunder to an extent of Rs.10 Crores with insurance coverage/validity for the period from 12.06.2009 to 11.06.2011. The contract of insurance is only between 2nd Respondent/2nd Defendant and 3rd Respondent/3rd Defendant and Appellant/1st Defendant is not at all a party to the said contract of insurance. That apart, Appellant/1st Defendant being the principal employer cannot be held vicariously responsible/liable for the tortious acts committed by the 2nd Respondent/2nd Defendant (independent contractor). However, without considering the same, 1st Appellate Court has erroneously confirmed the judgment passed by the Trial Court directing the 3rd Respondent/3rd Defendant to recover the damages from



Appellant/1st Defendant and 2nd Respondent/2nd Defendant. Therefore, the learned counsel prayed that the concurrent findings of the Courts below may be set aside.

19. The Respondents 1 & 2 had remained *ex parte* before the 1st Appellate Court.

20. The learned counsel appeared on behalf of 3rd Respondent/3rd Defendant submitted that 3rd Respondent/3rd Defendant had issued a Contractors All Risk Insurance Policy to 2nd Respondent/2nd Defendant for the period from 12.06.2009 to 11.06.2011. The said policy shows Appellant/1st Defendant (Chennai Metro Rail Limited) as the insured and 2nd Respondent/ 2nd Defendant (M/s.Soma Enterprise Limited) as the contractor. The Policy is not a private or exclusive cover obtained for Soma alone, it is a project policy taken in furtherance of the contractual obligations under Ex.B1 with CMRL expressly reflected as the insured entity.

20.1. It is further submitted by the learned counsel for 3rd Respondent/3rd Defendant that even assuming that Appellant/1st Defendant is aggrieved by the Judgment of Trial Court, the statutory scheme under the Employee's Compensation Act, 1923 provides a complete and efficacious answer. Section



12 of the Employee's Compensation Act, 1923 embodies the principle of principal employer's liability, coupled with a corresponding right of indemnity.

For the sake of clarity, Section 12(2) of the Employee's Compensation Act, 1923 is extracted hereunder:

"12. Contracting. -

(2). Where the principal is liable to pay compensation under this section, he shall be entitled to be indemnified by the contractor, or any other person from whom the employee could have recovered compensation and where a contractor who is himself a principal is liable to pay compensation or to indemnify a principal under this section he shall be entitled to be indemnified by any person standing to him in the relation of a contractor from whom the employee could have recovered compensation and all questions as to the right to and the amount of any such indemnity shall, in default of agreement, be settled by the Commissioner."

The above proviso statutorily entitles the Appellant/1st Defendant, if so advised, to seek indemnity from 2nd Respondent/2nd Defendant (Soma Enterprises Private Limited).

20.2. The learned counsel for 3rd Respondent/3rd Defendant also submitted that the proper course for Appellant/1st Defendant is not to challenge the decree on the specific plea of non-insurance, but, to invoke its contractual and statutory rights of recovery against the contractor. The present Second Appeal filed by the Appellant/1st Defendant discloses no factual or legal merits. Therefore, the learned counsel prayed for dismissal of this Second Appeal.



20.3. It is submitted by the learned counsel for 3rd Respondent/3rd Defendant that 3rd Respondent/3rd Defendant had already deposited the entire compensation amount to the credit of O.S.No.355 of 2011 on the file of City Civil Court, Chennai.

21. The learned counsel for Appellant/1st Defendant submitted that the premium for the Contractors All Risk Insurance Policy was paid by the 2nd Respondent/2nd Defendant and not by the Appellant/1st Defendant. He further submitted that the address column of said schedule reflects the address viz., M/s.Soma Enterprise Ltd., Hyderabad as address of the contractor.

22. Heard the learned counsel for Appellant/1st Defendant as well as the learned counsel for 3rd Respondent/3rd Defendant.

23. It is an admitted fact that Appellant/1st Defendant had entered into a Contract Agreement with 2nd Respondent/2nd Defendant and 2nd Respondent/2nd Defendant had insured the entire Chennai Metro Rail Limited project with 3rd Respondent/3rd Defendant.



24. The main contention of 3rd Respondent/3rd Defendant is that their company had issued a Contractors All Risk Insurance Policy to 2nd Respondent/2nd Defendant for the period from 12.06.2009 to 11.06.2011; the said policy shows Appellant/1st Defendant (Chennai Metro Rail Limited) as the insured and 2nd Respondent/2nd Defendant (M/s.Soma Enterprise Limited) as the contractor and hence, 3rd Respondent/3rd Defendant is entitled to recover the damages from Appellant/1st Defendant as well as from 2nd Respondent/2nd Defendant.

25. From a perusal of the Contractors All Risk Policy Schedule, it is evident that the address column of said schedule reflects the address viz., M/s.Soma Enterprise Ltd., Hyderabad as address of the contractor. It is also evident that the premium for the Contractors All Risk Insurance Policy was paid by the 2nd Respondent/2nd Defendant and not by the Appellant/1st Defendant. The same were not denied by the 3rd Respondent/3rd Defendant.

26. As far as this case is concerned, on the date of alleged accident, the Contractors All Risk Insurance Policy was in force. However, 2nd Respondent/2nd Defendant who insured the Chennai Metro Rail project with the 3rd Respondent/3rd Defendant had neither informed about the details of accident to 3rd Respondent/3rd Defendant nor submitted any claim form and thereby, 2nd



Respondent/2nd Defendant had committed breach of the terms and policy of said insurance.

WEB COPY

27. It is to be noted that the insurance contract is only between 2nd Respondent/2nd Defendant and 3rd Respondent/3rd Defendant and Appellant/1st Defendant is not a party to the said insurance contract. Therefore, Appellant/1st Defendant being a principal employer and 3rd party to the insurance contract, is not vicariously responsible/liable for the tortious acts committed by the 2nd Respondent/2nd Defendant (independent contractor) and thus, 3rd Respondent/3rd Defendant is not entitled to recover the compensation from Appellant/1st Defendant (principal employer). Accordingly, both the substantial questions of law are answered in favour of Appellant/1st Defendant.

28. However, without considering the above aspects, the Trial Court had erroneously directed the 3rd Respondent/3rd Defendant to recover the compensation from Appellant/1st Defendant and 2nd Respondent/2nd Defendant. The 1st Appellate Court has also confirmed the decision of the Trial Court.

29. Considering the above facts and circumstances of the case, this Court is of the opinion that the concurrent findings of the Courts below is erroneous and therefore, the same is liable to be set aside.



30. Accordingly, Judgment and Decree dated 09.01.2024 in A.S.No.92 of 2022 passed by the learned XXII Additional Judge, City Civil Court, Allikulam, Chennai confirming the Judgment and Decree dated 10.12.2018 in O.S.No.355 of 2011 passed by the learned VII Assistant City Civil Judge, Chennai is hereby set aside and this Second Appeal is allowed. The 3rd Respondent/3rd Defendant is directed to recover the compensation which was already deposited by them before the Trial Court, from 2nd Respondent/2nd Defendant. It is made clear that 3rd Respondent/3rd Defendant shall not recover any amount from the Appellant/1st Defendant. No costs. Consequently, connected Miscellaneous Petition is closed.

02.02.2026

mrr

Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The XXII Additional City Civil Court,
Allikulam, Chennai.

2.The VII Assistant City Civil Judge,
Chennai.



WEB COPY

S.A.No.843 of .



T.V.THAMILSELVI, J.

mrr

S.A.No.843 of 2025

02.02.2026