



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2026

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA No. 166 of 2024

1. Kasthuri
M/o. Kannan (Late)

2. Shakthivel
B/o. Kannan (Late)

..Appellant(s)

.Vs.

1. P.Venkatesan
S/o. Pachaiaippan

2.New India Assurance Co. Ltd.,
Motor Third Party Claims, No.232,
Bombay Mutual Building, 6th Floor,
NSC Bose Road, Chennai-600 001.

..Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award against the judgment and decree dated 23.12.2022 made in MACTOP No.5203/2018 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant(s): Mr. F. Terry Chella Raja

For Respondent(s): Ms.A.Salomi for R2



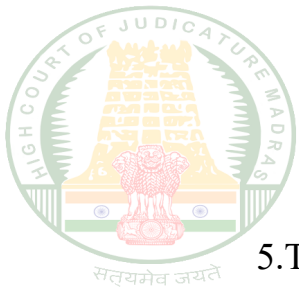
JUDGMENT

This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai in MACTOP No.5203/2018 dated 23.12.2022, wherein the claimants are seeking for enhancement of compensation fixed by the Tribunal.

2.The 1st claimant is the mother and the 2nd claimant is the brother of the deceased Kannan. The case of the claimants is that on 29.06.2018, the deceased was riding a two wheeler from Achirapakkam to Melmaruvathur National Highways and at about 09.15 p.m., an unknown vehicle dashed against the motor vehicle of the deceased and the deceased sustained multiple fatal injuries and died on 05.07.2018. 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 case in hand falls under the category of 'hit and run' case.

4. Having rendered the above finding, the Tribunal took into consideration the fact that the claimants filed petition under Section 163A of the Motor Vehicles Act.



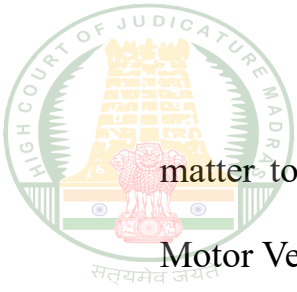
5.The deceased in this case had borrowed the two wheeler from the 1st respondent. Therefore, the Tribunal came to a conclusion that he cannot be considered as a third party. Accordingly, it was held that the petition filed under Section 163A of the Motor Vehicles Act, cannot be sustained. Aggrieved by the same, the present appeal has been filed before this Court.

6.Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent/Insurance Company.

7.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.

8.In the considered view of this Court, the finding rendered by the Tribunal does not suffer from any perversity. In the case in hand, the deceased admittedly is the borrower of the vehicle and he cannot be termed as a third party. The law on this issue is now too well settled.

9.The learned counsel for the appellants brought to the notice of this Court the order passed in SLP (CIVIL).Nos.1547-48 of 2024 dated 01.08.2025, wherein the Apex Court has doubted the earlier orders and has referred the



matter to the Larger Bench with respect to the scope of Section 163A of the Motor Vehicles Act, which is now restricted to only third party cases.

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10. In the considered view of this Court, the reference was made on 01.08.2025 and till date, no Larger Bench has been constituted. It is not known as to when the Larger Bench will be constituted or when the reference will be answered. Due to this uncertainty, this appeal cannot be kept pending for eternity.

11. In the light of the above discussion, this Court does not find any ground to interfere with the award passed by the Tribunal and the same is upheld. This Civil Miscellaneous Appeal is dismissed. If, in future, the Apex Court renders a decision favourable to the appellants, it will be left open to the appellants to revive their claim in the manner known to law. No costs.

08-07-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

The Motor Accident Claims Tribunal,
IV Court Of Small Causes, Chennai.



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N.ANAND VENKATESH J.

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