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CMA No. 2120 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 2120 of 2026
AND CMP NO. 16262 OF 2026

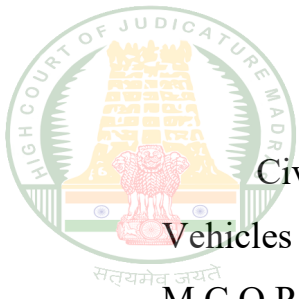
The Divisional Manager
The National Insurance Company Limited,
No.110, 2nd Floor, J.N.Street, Puducherry

..Appellant(s)

Vs

1. Kumar
S/o. Angappan
2. Malliga
W/o Kumar
3. Sandhiya
W/o Udayakumar
4. Sabari
S/o Kumar
All are residing at No. 15, 2nd Street,
Jamiyath Nagar, Kottakuppam, Vanur Taluk,
Villupuram District, Tamil Nadu 605 104.
5. TAC HQRTS IF SPL OPS BSF
SPL OPS BSF, Odisha at Bangalore,
AFS Yelahanka, Bagalur Cross,
Bangalore, Karnataka 560 063.
6. Sangeetha
D/o Sundaramoorthy,
No 15, Vinayagar Koil Street,
Santhi Nagar, Lawspet, Puducherry.

..Respondent(s)



Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order dated 28.03.2024 passed in M.C.O.P.No.1213 of 2022 on the file of the Motor Accidents Claims Tribunal, II Additional District Court, Puducherry.

For Appellant(s):	Mr.J Michael Visuvasam
For RR 1 to 4 & 6:	Mr.R.Sreedhar
For R5:	Mr.K.R.Samratt
	Senior Panel Counsel for Central Government

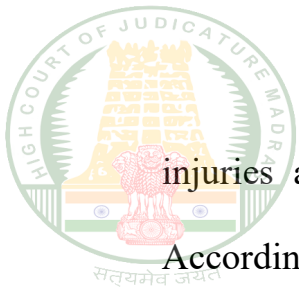
JUDGMENT

(delivered by M.Jothiraman J.)

Challenging the award dated 28.03.2024 passed in M.C.O.P.No.1213 of 2022 on the file of the Motor Accidents Claims Tribunal, II Additional District Court, Puducherry, the appellant/insurance company has filed the present appeal.

2. The brief facts of the case, which are relevant for deciding this appeal, are as follows:

2.1 On 15.09.2022 at about 9.00 p.m., the deceased Santhosh @ Ezhumalai was riding his Pulsar motorcycle bearing Registration N.PY 05 DF 4810 at Lawspet-Karuvadikuppam Main Road, opposite to VMB Residency, from West to East direction. At that time, a Scorpio car bearing Registration No.OD 33 H 7264, which came in the opposite direction in a rash and negligent manner, dashed against the deceased two wheeler, due to which, he sustained



injuries all over his head and body and died on the way to the hospital.

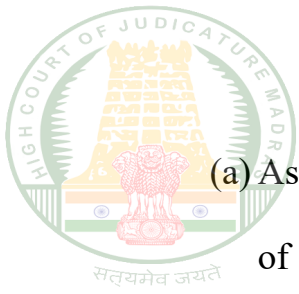
According to the claimants, the accident had happened only due to the rash and negligent act of the driver of the first respondent.

2.2 The fifth respondent contested the case of the claimants by filing his counter statement, in which, he has stated that the deceased drove his motorcycle under the influence of alcohol without wearing helmet in a rash and negligent manner.

2.3 The appellant/insurance company also contested the case of the claimants by filing counter statement, in which, it has been stated that the driver of the Scorpio car has no valid driving licence and further, at the time of accident, the deceased did not possess valid driving license and was riding his motorcycle without wearing helmet.

2.4 On behalf of the claimants, fourth petitioner therein Sabari was examined as PW1 and one Sivaraj, eyewitness to the accident was examined as PW2 and Exs.P1 to P19 were marked. On behalf of the respondent, no witness was examined nor any document marked.

2.5 Upon appreciation of the evidence adduced on either side, the Tribunal finds that,



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(a) As per the evidence of PW2, the accident had happened due to the driver of the Scorpio car, who drove the vehicle in a rash and negligent manner without applying horn and dashed against the deceased motorcycle.

(b) As per Ex.P14, the deceased was possessing valid driving licence at the time of accident.

(c) As per the evidence of PW2, the deceased was not wearing helmet at the time of accident and deducted 10% out of the total compensation for not wearing helmet by the deceased.

(d) The age of the deceased was fixed at 27 years and applied 17 multiplier following the decision of the Hon'ble Supreme Court in *Sarla Verma & Ors vs. Delhi Transport Corp. & Anr* reported in (2009) 6 SCC 121.

(e) As per the law laid down by the Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi & Ors.* reported in (2017) 16 SCC 680, a sum of Rs.40,000 was awarded to the first claimant under the head loss of consortium.

(f) The Tribunal awarded a sum of Rs.29,54,700/- as just compensation under various heads as under:

Heads of compensation	Amount awarded by the Tribunal (in Rs.)
Loss of income	32,13,000
Loss of consortium to the third respondent (wife)	40,000
Funeral Expenses	15,000
Loss of Estate	15,000
	32,83,000

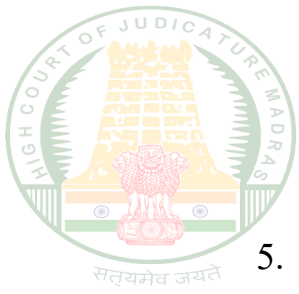


Heads of compensation	Amount awarded by the Tribunal (in Rs.)
Less 10% for not wearing helmet	-3,28,300
Total	29,54,700

2.6 Aggrieved over the same, the appellant/insurance company has preferred the present appeal.

3. The learned counsel for the appellant submitted that deducting 10% for not wearing helmet is not proper and in fact, the accident happened due to head on collision of both vehicles and the contributory negligence has to be fixed at 50% on the deceased. As per the final opinion (Ex.P17) issued by the doctor based on the postmortem report (Ex.P16) would reveal that the deceased was riding the motorcycle under the influence of alcohol without wearing helmet and therefore, the contributory negligence of 50% had to be fixed on the deceased.

4. *Per contra*, the learned counsel appearing for the respondents submitted that after considering the evidence adduced on either side, the Tribunal has rightly fixed the negligence on the part of the driver of the fifth respondent vehicle and also deducted 10% for not wearing helmet. He further submitted that there is no infirmity in the final award passed by the Tribunal and prays to dismiss this appeal.

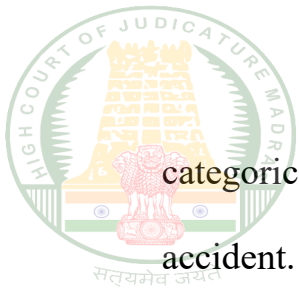


5. We have considered the submissions made on either side and perused the materials available on record.

6. It is seen from the records the fifth respondent herein has admitted in his counter statement that his driver one Suresh drove the car at the time of accident.

7. PW2 deposed that on 15.09.2022 at about 9.00 p.m. when he was waiting for his friend in front of a fruit shop at Lawspet-Karuvadikuppam Main Road, the deceased came in his motorcycle and at that time, a Scorpio car, which came in the opposite direction in a rash and negligent manner without applying horn, dashed against the deceased motorcycle, due to which, the deceased sustained grievous injuries on his head.

8. Though the appellant/insurance company contended that the rider of the motorcycle drove the vehicle in an inebriated condition without valid licence, in order to prove the same, the appellant has not chosen to examine any medical witness and not produced any documents. Ex.P4 is the copy of driving licence of the deceased, which shows that the deceased had valid driving licence at the time of accident. PW1, in his cross-examination, categorically admitted that the deceased was not wearing helmet at the time of accident. PW2 also



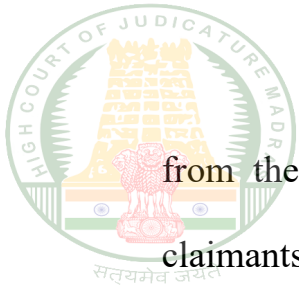
categorically deposed that the deceased was not wearing helmet at the time of accident. Therefore, the Tribunal deducted 10% out of the total compensation for not wearing helmet by the deceased.

9. Ex.P17 is the final opinion on the postmortem examination report (Ex.P16), wherein, it has been stated as follows:

“The final opinion as to the cause of death of the deceased was due to cranio cerebral injuries as a consequence of blunt force injuries and its complications. The person has consumed alcohol prior to death.”

10. The appellant has failed to examine any medical witness to establish the factum of consumption of alcohol prior to the death of the deceased and therefore, the same cannot be taken into account for fixing 50% contributory negligence on the deceased. In view of the foregoing discussions, we find no infirmity in the award passed by the Tribunal and this civil miscellaneous appeal is liable to be dismissed as devoid as merits.

In the result, the civil miscellaneous appeal is dismissed confirming the order dated 28.03.2024 passed in M.C.O.P.No.1213 of 2022 on the file of the Motor Accidents Claims Tribunal, II Additional District Court, Puducherry. The appellant/insurance company shall deposit the compensation amount awarded, as confirmed by this Court, before the Tribunal, within a period of four weeks



from the date of receipt of a copy of this order and on such deposit, the claimants are directed to withdraw the same as apportioned by the Tribunal, after filing a proper petition for withdrawal. No costs. Connected C.M.P. is closed.

(N.S.K.,J.) (M.J.R.,J.)
10-07-2026

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

nsd

To

1.The II Additional District Judge,
Motor Accidents Claims Tribunal, Puducherry.

2.The Section Officer,
V.R. Section, Madras High Court.



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**N.SATHISH KUMAR J.
AND
M.JOTHIRAMAN J.**

nsd

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