



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-07-2026

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THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 694 of 2024
C.M.P.No.6435 of 2024

Reliance General Ins.Co Ltd.
Branch Office at 3rd floor, Sakthi Supermarket
Building, No.408, Perundurai Road, Erode.

..Appellant(s)

Vs

1. B. Rajeswari,
2. C. Sivasubramani
3. S. Gurumoorthy
4. C. Baskaran

..Respondent(s)

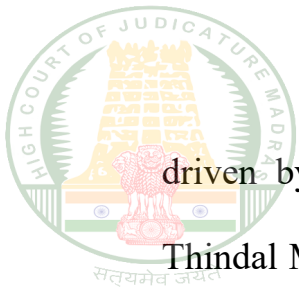
Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prayed to set aside the decree and judgment dated 01.11.2022 passed in M.C.O.P. No.1 of 2019, by the Motor Accident Claims Tribunal, Special Sub Judge Court at Erode.

For Appellant(s):	M/s.C.Bhuvanasundari
For Respondent(s):	R.Nalliyappan for R1
	R2 – R4 (served-No appearance)

JUDGMENT

This appeal has been filed against the award dated 01.11.2022 passed by .the Motor Accident Claims Tribunal, Special Sub Judge Court, Erode, in M.C.O.P.No.1 of 2019.

2.The case of the claimant is that on 05.09.2018, at about 12.30.p.m, she along with her minor daughter were travelling as pillion riders in a two-wheeler

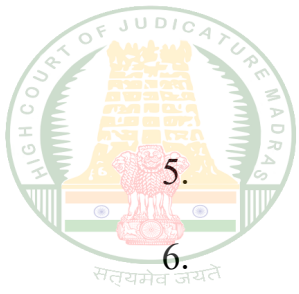


driven by the fourth respondent herein, at Erode to Perundurai Road, near Thindal Murugan Koil. The offending vehicle which was a lorry was driven by the second respondent herein and it belongs to the third respondent herein and it was driven in a rash and negligent manner. The lorry hit the two-wheeler, as a result of which, the claimant sustained bone fractures and other injuries. 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 evidence, came to a conclusion that there was composite negligence in this case and therefore the claimant is entitled to claim compensation from any one of the vehicle and since the two-wheeler was covered by Insurance policy, the Tribunal proceeded to fix the liability on the appellant / Insurance Company.

4.The Tribunal fixed the total compensation at Rs.13,47,480/- under various heads as follows:-

	Headings	Amount in Rs.
1.	Loss of Earnings	Nil
2.	Transport to Hospital	5,000
3.	Extra nourishment	7,000
4.	Attender Charges	10,000



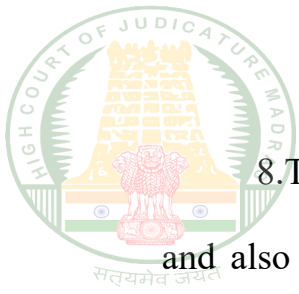
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5.	Future Medical Expenses	45,000
6.	Damages for Clothes and Articles	2000
7.	Medical Expenses	2,26,000
8.	Pain and Sufferings	2,00,000
9.	Permanent Disability & Loss of Earning Power	8,52,480
	Total	13,47,480/-

5.The above compensation was directed to be paid along with interest at the rate of 7.5% per annum from the date of the petition. Aggrieved by the same, the Insurance company has approached this Court by way of the present Appeal.

6.Heard the learned counsel for appellant and the learned counsel for respondents. This Court has carefully considered the submissions made on either side and also went through the award passed by the Tribunal.

7.The bone of contention is that the entire negligence was attributed against the lorry by the fourth respondent herein, who is none other than the husband of the claimant and whereas the Tribunal came to the conclusion that there was composite negligence and hence, the negligence was also attributed on the two-wheeler, as a result of which the Insurance company was directed to pay the compensation.



8. This Court carefully went through the evidence of P.W.2 and R.W.1 and also the First Information Report, Rough Sketch and charge sheet which were marked as Ex.R1 to R3.

9. Immediately, after the accident, the complaint was given by the fourth respondent herein explaining the manner in which the accident had taken place and fixing the entire negligence on the driver of the offending vehicle lorry. Even after the completion of investigation, the charge sheet points out only to the negligence on the part of the lorry driver. The rough sketch also explains the manner in which the accident had taken place. While so, the Tribunal was swayed by a stray statement made by the P.W.2 to the effect that the fourth respondent had also drove the two-wheeler in a rash and negligent manner. On the basis of the same, the Tribunal has erroneously applied the principle of composite negligence.

10. It is a clear case where the claimant was aware of the fact that the lorry was not covered under an Insurance policy. Therefore, ingeniously, the two-wheeler which was ridden by none other than the husband of the claimant was roped in since it had an insurance policy coverage and the claimant has managed to rope in the Insurance company which was directed to pay the compensation.



11. The finding of the Tribunal in this regard is perverse and in utter disregard of the evidence available on record. Hence, the same requires the interference of this Court. The finding of the Tribunal fixing the liability on the Insurance company is hereby set aside.

12. The lorry owner alone is liable to pay the compensation and hence, the compensation that has been fixed by the Tribunal has to be paid by the third respondent, who is the owner of the offending vehicle, along with accrued interest. There shall be a direction to the third respondent herein to deposit the entire award amount along with the accrued interest within a period of eight weeks from the date of receipt of a copy of this order.

13. In the result, Civil Miscellaneous Appeal is allowed and the amount deposited by the third respondent shall be permitted to be withdrawn along with accrued interest. Consequently, connected Civil Miscellaneous Petition stands closed. No costs.

22-07-2026

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

EP

N.ANAND VENKATESH, J.



CMA No. 694 of 2



EP

To:-

The Motor Accident Claims Tribunal,
Special Sub Judge Court, Erode.

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