

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-07-2026

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Civil Miscellaneous Appeal No.2640 of 2022

and

C.M.P.No.20527 of 2022

ICICI Lombard General Insurance
Company Limited,
Nos.84 & 85, 2nd Floor,
Walltax Road, Chennai 600 084.

..Appellant

Vs

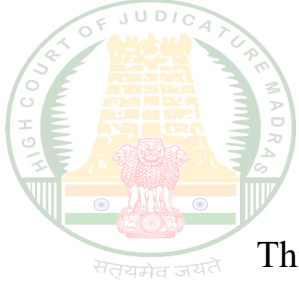
1. R.Birundha
W/o.C.Ramesh
2. C.Ramesh
S/o.Chinnathambi
3. Rajesh Khanna

..Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment dated 27.07.2022 made in MCOP No.3799 of 2019 on the file of the Motor Accident Claims Tribunal, Chief Court of Small Causes, Chennai.

For Appellant : Mr.B.Siva Kollapan

For Respondents : Mr.A.G.F.Terry Chella Raja [R1 & R2]

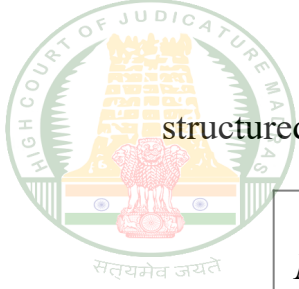


JUDGMENT

This appeal has been filed against the judgment of the Motor Accident Claims Tribunal, Chief Court of Small Causes, Chennai, passed in M.C.O.P.No.3799 of 2019 dated 27.07.2022.

2. The respondents 1 and 2 are the claimants. They are the parents of the deceased Ranjith Kumar. On 06.05.2019, the deceased was riding a two wheeler at East Coast Road and at about 17.00 hours, the offending vehicle, a two wheeler was driven in a rash and negligent manner and dashed against the two wheeler of the deceased, as a result of which the deceased was thrown out of the vehicle, sustained multiple grievous injuries and died on the spot. It is under these circumstances, the claim petition came to be filed before the Tribunal under Section 166 of the Motor Vehicles Act.

3. The Tribunal, considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the negligence was on the part of the deceased and that the deceased was a tortfeasor in this case. The Tribunal, having rendered the above finding, *suo motu* converted the claim petition from Section 166 to Section 163A of the Motor Vehicles Act. The Tribunal, thereafter, fixed compensation under the



structured formula at Rs.4,14,333/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income/dependency	6,12,000/-
2.	Loss of estate	2,500/-
3.	Loss of consortium	5,000/-
4.	Funeral expenses	2,000/-
		6,21,500/-
	Less: 1/3rd in consideration of the expenses which the victim would have incurred towards himself had he been alive	2,07,167/-
	Compensation payable	4,14,333/-

The above compensation was directed to be paid with interest at 7.5% p.a. from the date of petition. Aggrieved by the same, the present appeal has been filed by the insurance company.

4. Heard learned counsel for appellant and learned counsel for respondents 1 and 2.

5. The main ground argued by learned counsel for appellant is that the claim petition was filed under Section 166 of the Motor Vehicles Act and the negligence was found on the part of the deceased, whereas, the Tribunal had converted the claim petition to one under Section 163A of the Motor Vehicles Act and awarded compensation and that the same is not sustainable.



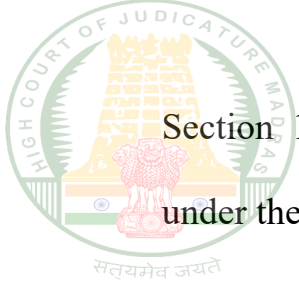
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6. *Per contra*, learned counsel for respondents 1 and 2/claimants submitted that the evidence, more particularly, the rough sketch in this case, makes it clear that the negligence was only on the part of the offending vehicle.

Learned counsel submitted that even this Court is not inclined to sustain the award passed by the Tribunal on the ground that the claim petition ought not to have been converted to one under Section 163A of the Motor Vehicles Act, the issue of negligence can be decided independently and this Court can render a finding on whose negligence the accident had taken place. Learned counsel, therefore, submitted that the award passed by the Tribunal does not require the interference of this Court.

7. This Court has carefully considered the submissions made on either side and perused the materials available on record. This Court also went through the award passed by the Tribunal.

8. In the case in hand, admittedly, the claim petition has been filed under Section 166 of the Motor Vehicles Act, 1988. Consciously, the claimant had prosecuted the case only on the ground that there was negligence on the part of the offending vehicle. For this purpose, PW-2, who is said to be the eye witness was also examined. The Tribunal, on appreciation of evidence, came to a conclusion that the negligence was only on the part of the deceased. Having rendered such a finding, the Tribunal converted the claim petition to one under



Section 163A of the Motor Vehicles Act, 1988 and awarded compensation under the structured formula.

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9. This Court had an occasion to deal with the similar issue and it was held that once the evidence on negligence has been appreciated and the Tribunal has come to a conclusion, the Tribunal cannot midway convert the claim into one under Section 163A of the Act. Useful reference can be made to the judgment of the Apex Court in ***Kasthuri @ A.Kasthuri Bai v. P.T.Prem Satheesh and another [2023-1-L.W.468]***.

10. In view of the above, this Court holds that the Tribunal ought not to have converted the claim petition to one under Section 163A of the Motor Vehicles Act when the claim petition was consciously filed under Section 166 of the Motor Vehicles Act and the Tribunal also gave a categorical finding that negligence was only on the part of the deceased.

11. The next question is as to whether this Court can appreciate the evidence independently and render an independent finding regarding negligence.

12. It is true that an appeal will not lie on the basis of a finding rendered by the Court/Tribunal. However, when the other side files an appeal, such



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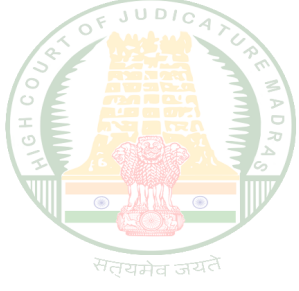
finding rendered by the Court/Tribunal can be challenged only by way of filing cross-objection. In the absence of any cross-objection, the Court cannot exercise the power under Order XLI Rule 33 of the Civil Procedure Code and interfere with the findings. Useful reference can be made to the judgment ***R.Gnana Soundari v. R.Chellappan (died) [2026 (2) CTC 885]***.

13. In the light of the above discussion, the award passed by the Tribunal cannot be sustained. This Court is aware of the fact that the claimants are parents of the deceased and they have lost their son, however, sympathy by itself cannot be a ground to decide a case and every case has to be decided in accordance with law.

Accordingly, this Civil Miscellaneous Appeal is allowed and the award passed by the Motor Accident Claims Tribunal, Chief Court of Small Causes, Chennai, passed in M.C.O.P.No.3799 of 2019 dated 27.07.2022, is hereby set aside. If any amount has been deposited by the appellant insurance company pursuant to the award passed by the Tribunal, the appellant insurance company is entitled to withdraw the same with interest. No costs. Consequently, connected miscellaneous petition is closed.

13-07-2026

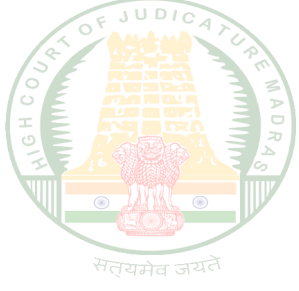
Index: Yes
Speaking order
Neutral Citation: Yes
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To

The Motor Accident Claims Tribunal,
Chief Court of Small Causes,
Chennai.



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N.ANAND VENKATESH, J.

gm

Civil Miscellaneous Appeal No.2640 of 2022

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