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CMA No. 1978 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1978 of 2026

R.Raveendar Kumar Singh
S/o. Ragunath Singh,
Res. at No.1/46, Poothar Nagar,
Pongupalayam Post,
Paramasivampalayam,
New Tirupur,
Tirupur.

..Appellant(s)

Vs

1. C. Marimuthu
S/o Chinnaya Gounder,
No.1/516, Bharathi Nagar,
Mangalam Road,
Velayuthampalayam,
Kasigoundenpudhur,
Avinashi.
2. The BM
United India Insurance Co. Ltd,
Avinashi 641 654.
3. Nagaraj
S/o. Perumal,
D.No.41, 23G4, Perumal Layout,
Mahadevapuram Post,
Mettupalayam.
4. The BM
The New India Assurance Co. Ltd,
Mettupalayam.

..Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to enhance the amount awarded in MCOP No. 1727 of 2013



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dated 27.02.2023 on the file of Motor Accident Claims Tribunal, (Exclusive Motor Accident Claims Tribunal, at Tirupur as prayed for with interest and cost.

For Appellant(s): M/s.K.Varadhakamaraj
For Respondent(s): M/s.D.Nandhagopal For R1
M/s.S.Arunkumar For R2
M/s.T.Jayaraman For R4
R3- Service Awaited

JUDGMENT

Unsuccessful claimant has preferred this Civil Miscellaneous Appeal, challenging the fastening of 50% liability towards contributory negligence on the claimant, vide award dated 27.02.2023 in MCOP.No.1727 of 2013 on the file of the Motor Accidents Claims Tribunal, Tirupur.

2. According to the claimant, namely R.Ravindra Kumar Singh, on 14.09.2013 at about 18.45 hours, when he was riding his motor cycle bearing Reg.No.TN 39 BH 6520 from West to East, opposite to RTO Office, Avinashi on the Avinashi to Erode NH47, an Auto bearing Reg.No.TN 40 V 0705, driven by its driver in a rash and negligent manner, hit against the motor cycle of the claimant, as a result of which the claimant fell down and ran over by a lorry bearing Reg.No.TN 47A 9495 driven by its driver in a rash and negligent manner. Due to the accident, the claimant sustained grievous injuries, his left leg was amputated, suffered fracture on his right leg and injuries all over his body. At the time of accident, the claimant was aged about 30 years, earning



Rs.14,000/- per month by working as a Security in IndusInd Bank, Avinashi.

The 1st respondent therein is the owner of the auto bearing Reg.No.TN 40 V 0705 and the 2nd respondent is its insurer. The 3rd respondent is the owner of the lorry bearing Reg.No.TN 47 A 9495, which is insured with the 4th respondent.

3. The 2nd respondent Insurance Company has filed a counter affidavit denying the petition averments and stated that the FIR has been lodged with a delay of 1 day. The driver of the Auto did not have an effective driving licence. Only the lorry diver, drove the lorry rashly and ran over the claimant.

4. The 4th respondent Insurance Company also filed a counter statement wherein it has been stated that the accident had occurred only due to the rash and negligent driving of the auto driver and the claimant. The claimant had rashly and negligently attempted to overtake the lorry unmindful of the vehicle coming in the opposite direction and he was hit by the auto, which came in a rash and negligent manner.

5. On behalf of the claimant, the claimant examined himself as PW1 and through him Exs.P1 to P5 were marked. Dr.Senthilkumar, Deepa Hospital was examined as PW2 and Exs.P6 and P7 were have been marked through him. One Anandh Surya Narayana, Branch Manager, IndusInd Bank, Avinashi Branch has been examined as PW3 and Exs.P8 to P12 have been marked



through him. On the side of the 4th respondent one Venkatasubramaniam, who is the official working under 4th respondent, was examined as RW1 and Exs.R1 to R6 have been marked through him. On behalf of the 2nd respondent, neither any witness was examined nor any document was marked.

6. Upon appreciation of evidence adduced on either side, the Tribunal found that complaint was given by the brother of the claimant, but he was not examined. The claimant deposed that he had gone on the centre of the road and the auto hit him. As per the admission made by the claimant, he had drove the motor cycle on the left extreme road. Though the claimant had denied the claim that he attempted to overtake the lorry, his admission that he was going on the centre of the road, only supports the claim that the claimant moved on the centre of the road and attempted to overtake the lorry which was going in front of him. No evidence was let in to show that the auto was driven carefully and cautiously. It is clear that the auto was also driven in a rash and negligent manner in the centre of the road and had collided with the motorcycle which was also driven rashly and negligently. Since the 4th respondent had validly cancelled the insurance policy issued to the lorry and on that ground, it is not liable to pay any compensation to the claimant. Hence, contributory negligence was fixed at 50% on the claimant and 50% on the driver of the auto. The Tribunal, by relying upon various judgements of the Hon'ble Supreme Court governing the field, has also awarded compensation under various other hands,



which is tabulated below:

Heads of Compensation	Amount awarded by the Tribunal (Rs.)
Loss of earning for a period of 6 months during the period of recovery	78,000
Loss of Future Income Rs.13,000 + Rs.5200 =18,200 (Future Prospects @ 40%) 18,200 x 12 x Multiplier 17 Rs.2,18,400 x 17 = 37,12,800	37,12,800
Transportation Expenses	25,000
Extra Nourishment	1,00,000
Attender Charges	50,000
Cloths and Articles	5,000
Expenses towards Prosthetic Limb	4,00,000
Pain and Suffering, Loss of Amenities and Future Medical Expenses (Rs.1,50,000 + 1,00,000 + 50,000)	3,00,000
Medical Expenses	4,04,656
TOTAL	50,75,456

As the Tribunal found that the contributory negligence of the claimant is 50%, the claimant was entitled to a claim of Rs.50,75,456/- x 50% = Rs.25,37,728/- from the 2nd respondent / insurer of the auto. Being aggrieved over the same, the claimant has preferred this appeal challenging the fastening of 50% Contributory Negligence on the claimant. The 2nd respondent Insurance Company has not preferred any appeal.

7. The learned counsel appearing for the appellant / claimant would submit that the Tribunal went wrong in fixing 50% negligence on the side of the claimant for the simple reason that the claimant overtook the lorry and came to



the centre of the road. The Tribunal failed to consider that the appellant / claimant vehicle is a two wheeler, small vehicle and even road is also 60 feet road and the claimant came in his correct direction, but the 1st respondent's auto driver, who came in the opposite direction, hit the claimant's vehicle and consequently, the claimant fell down from the motorcycle and as such, the main root cause for the accident was rash and negligent driving of the 1st respondent's vehicle and therefore, the Tribunal ought to have fixed the entire negligence on the 1st respondent's vehicle.

8. The learned counsel appearing for the 4th respondent / insurer of the lorry would submit that upon appreciation of entire evidence, the Tribunal has rightly dismissed the claim against the 4th respondent on the ground that the 3rd respondent's lorry driver was not rash and negligent and therefore, the 4th respondent Insurance Company is not liable to pay any compensation for the alleged accident.

9. *Per contra*, learned counsel appearing for the 2nd respondent / Insurance Company would submit that the lorry was driven in a rash and negligent manner and auto was not involved in the accident. The claimant / motor cycle rider rash and negligently attempted to overtake the lorry, unmindful of the auto which is coming on the opposite direction and at that time, the claimant was hit by the auto and therefore, the entire negligence is on



the part of the claimant alone and there is no negligence on the part of the person who drove the auto. Therefore, the finding of the Tribunal fixing 50% contributory negligence on the auto driver is wholly unsustainable and prays to fix the entire liability on the tortfeasor, who is the appellant / motor cycle rider.

10. This Court considered the submissions made on either side and perused the entire materials available on record.

11. According to the claimants, on 14.09.2013 at about 18.45 hours, when he was riding his motorcycle bearing Reg.No.TN 39 BH 6520 from West to East, opposite to RTO office, Avinash, on the Avinashi to Erode NH 46, the auto bearing Reg.No.TN 40 V 0705, belonging to the 1st respondent's auto, driven by its driver in a rash and negligent manner and hit against him. The claimant suddenly fell down and ran over by the lorry belong to the 3rd respondent, driven by its driver in a rash and negligent manner. Admittedly, in this case there are 3 vehicles involved in the accident.

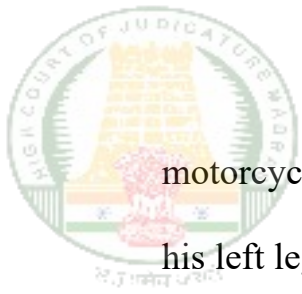
12. According to the 2nd respondent / insurer of the auto, the lorry driver drove the vehicle in a rash and negligent manner and the auto was driven by its driver in a proper diligent manner and if the claimant carefully and cautiously overtook the lorry in a diligent manner, the accident would not have occurred and the driver of the auto is no way connected with the alleged accident. Since



the accident had taken place when the claimant has drove the motor cycle in a rash and negligent manner without noticing the oncoming vehicle on the opposite direction and also drove his motorcycle in the centre median of the road and at that time only, the auto which came in the opposite direction in a diligent manner and the claimant alone dashed against the auto and fell down on the road and at that time, the driver of the lorry who drove the same in a rash and negligent manner ran over the claimant, due to which the claimant suffered injuries and therefore, the Tribunal fixing 50% liability on the insurer of the auto is unsustainable in law and therefore, the entire liability should be fastened on the appellant / claimant alone.

13. It is pertinent to note that initial burden always lies on the claimant to prove negligence by producing oral and documentary evidence through preponderance of probabilities and by strict proof of evidence.

14. The claimant in his cross examination admitted that his brother has lodged a complaint and also stated that he had gone on the centre median of the road and the auto came in the opposite direction dashed against him. Based on the complaint lodged by the brother of the claimant, FIR came to be registered. In the complaint, it has been stated that the claimant, who was driving the motorcycle from West to East attempted to overtake the lorry that was going in front of him and at that time, the auto coming in the opposite direction hit the



motorcycle, due to which the claimant fell down on the road and lorry ran over his left leg.

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15. Admittedly, the claimant has not chosen to examine his brother / defacto complainant in this case. No independent witness was examined to support the claimant. As per the averments made in the First Information Report, the claimant has gone on the centre of the road and attempted to overtake the lorry that was going in front of him. While trying to overtake the lorry, he dashed against the auto which came in the opposite direction, as a result of which the claimant fell down on the road and the lorry ran over him.

16. It is not in dispute that when the claimant fell down after colliding his motorcycle with the auto and the lorry ran over him on the left side of the claimant. In this circumstance, it is clear that the lorry also ran in close proximity with the two wheeler / motorcycle. While overtaking the lorry, after being hit/dashed by the auto coming from the opposite direction, the claimant fell down on the middle of the road and the lorry ran over the left side leg of the claimant.

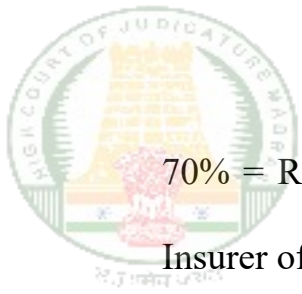
17. As rightly found by the Tribunal, no negligence can be fastened against the driver of the lorry, since there is head collision between the two wheeler, which was driven by the claimant and the auto which was coming on



the opposite direction and the accident had occurred in the centre median of the road. If the rider of the motorcycle had cautiously noticed the auto coming in the opposite direction, he would not have taken the risk of overtaking the lorry. Hence, there is some extent of negligence on the part of the claimant. Similarly, the auto driver driving the auto in the opposite direction, should have maintained left side driving whereas in the case on hand, the accident had taken place in the centre of the road. After hitting the auto, immediately the claimant felt down on the road and unfortunately the 3rd respondent lorry ran over the left leg of the claimant.

18. It is to be noted that the claimant's vehicle is a two wheeler, a smaller vehicle and even the width of the road is more than 50 feet as it is a National Highway – NH47, but the 1st respondent auto driver, who drove the auto in the opposite direction, hit the claimant motorcycle in the middle of the road, which shows that there should be more contributory negligence on the part of the driver of the auto than the claimant.

19. In view of the above, this Court is inclined to fix contributory negligence of 70% on the auto driver and 30% on the claimant. There is no dispute with regard to awarding compensation under other heads as awarded by the Tribunal. As it has been held by this Court that contributory negligence of the claimant is 30%, thus, the claimant shall be entitled to claim Rs.50,75,456 x



70% = Rs.35,52,819/- rounded off to **Rs.35,52,800/-** from the 2nd respondent /
Insurer of the auto.

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20. Accordingly, this Civil Miscellaneous Appeal stands partly allowed and the compensation awarded by the Tribunal dated 27.02.2023 in MCOP No. 1727 of 2013 passed by the Motor Accident Claims Tribunal, (Exclusive Motor Accident Claims Tribunal, at Tirupur) is modified to the effect that the claimant is entitled to a compensation of Rs.35,52,800/- along with interest @ 7.5% p.a. from the date of claim petition till the date of disbursement. The 2nd respondent Insurance Company / Insurer of the Auto is directed to pay the balance compensation amount, less amount already deposited if any, within a period of four weeks from today. On such deposit, the claimant is entitled to withdraw the compensation amount after filing appropriate application before the Tribunal in the manner known to law. The manner and mode of disbursement of compensation shall be as per the order of the Tribunal. No costs.

13-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
Jvm
To
Motor Accident Claims Tribunal,

(Exclusive Motor Accident Claims Tribunal, at Tirupur)



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M.JOTHIRAMAN J.

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