



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 446 of 2023

AND

CMP No. 3717 of 2023

The United India Insurance Company Ltd
Nethaji Road, Cuddalore-1.

..Appellant(s)

Vs

1. K.Selvaraj, S/o Kathavarayan,
7A/13, Wellington Street, Cuddalore O.T.
2. A.Balasubramaniyan
S/o Sankara Pandiyan No.58 Arun Nagar,
Chellankuppam, Cuddalore O.T.
3. Premavathy, W/o Selvaraj
7A/13, Wellington Street, Cuddalore O.T.
4. The New India Assurance Company Ltd.,
No.1, Bharathi Road, Arcot Woodlands
Building, Cuddalore – 1.
5. M/s.Shasun Chemicals and Drugs Ltd.,
Plot No.A/1/B, Sipcot Industrial Complex
Kudikadu, Cuddalore 607 005.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 12.10.2015 in MCOP 2694 of 2007 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) at Cuddalore.

For Appellant(s):

M/s.R.Sree Vidhya



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For Respondent(s): M/S. J. Chandran For R4
Mr. C.M. Mohana Sundaram For R5
For R1 & R3 – Served No appearance
R2 – No Such Address

JUDGMENT

This appeal has been filed by the Insurance Company against the award passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Cuddalore in M.C.O.P.No.2694 of 2007, dated 12.10.2015.

2. The first respondent is the claimant. The case of the first respondent is that on 04.11.2006, he was riding a two-wheeler from Cuddalore, and at about 7.45 p.m., the offending vehicle, which was also a two-wheeler, was driven in a rash and negligent manner and dashed against the two-wheeler driven by the claimant. As a result of which, the claimant fell down and sustained grievous 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 oral and documentary evidence rendered a categorical finding that the accident had taken place only due to the rash and negligent driving on the part of the claimant.

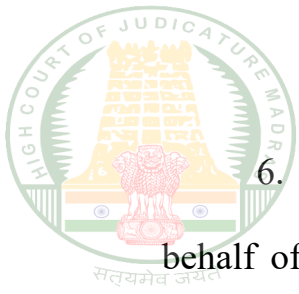


4. The Tribunal, having rendered the above finding, fixed the total compensation at Rs.3,03,960/- under the following heads:

<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of earning capacity	Rs.1,53,000/-
2.	Transport to hospital	Rs.10,000/-
3.	Special diet	Rs.5,000/-
4.	Loss of income for 2 months	Rs.10,000/-
5.	Pain and sufferings	Rs.20,000/-
6.	Rs.10,000/- per fracture Rs.7,500/- per surgery (1 Frs, 4 Sur)	Rs.17,500/-
7.	Medical expenses	Rs.53,460/-
8.	Attendant charges	Rs.5,000/-
9.	Loss of amenities for whole body	Rs.30,000/-
	Total	Rs.3,03,960/-

The above compensation was directed to be paid by the appellant -Insurance Company which is the insurer for the two-wheeler driven by the claimant along with interest at the rate of 7.5% per annum to the claimant. Aggrieved by the same, the present appeal has been filed by the Insurance Company.

5. The first respondent / claimant has been served with notice and the name of the first respondent also been printed in the cause list and there is no representation either in person or through counsel.

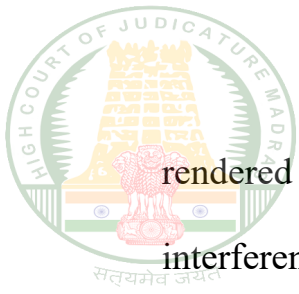


6. This Court heard M/s.R.Sree Vidhya, learned counsel appearing on behalf of the appellant – Insurance Company and M/S. J. Chandran, learned counsel appearing for the fourth respondent and Mr. C.M. Mohana Sundaram, learned counsel appearing for the fifth respondent.

7. This Court carefully considered the submissions made by the learned counsel for the appellant and the materials available on record. This Court also carefully went through the award passed by the Tribunal.

8. The main ground that was urged on the side of the appellant - Insurance Company is that the claim petition was filed under Section 166 (1) of the Motor Vehicles Act, whereas the Tribunal, after finding that the entire negligence was upon the claimant, erroneously fixed the compensation amount and directed the compensation to be paid by the appellant – Insurance Company.

9. In the case in hand, the claimant is the borrower of the vehicle. The Tribunal found that the accident had taken place only due to the negligence of the claimant. In such a scenario, the claim petition ought to have been dismissed since it was filed under section 166(1) of the Motor Vehicles Act. Instead, the Tribunal fixed the compensation amount and also directed the appellant – Insurance Company to pay the compensation to the claimant. This finding



rendered by the Tribunal is, on the face of it, illegal. Hence, it requires the interference of this Court and the award passed by the Chief Judicial Magistrate, Motor Accident Claims Tribunal, Cuddalore in M.C.O.P.No.2694 of 2007, dated 12.10.2015 is hereby set aside. This Civil Miscellaneous Appeal is allowed.

10. It is submitted by the learned counsel for the appellant – Insurance Company that the entire award amount has already been deposited before the Tribunal and the same has also been withdrawn by the claimant. In such an event, it is left open to the appellant – Insurance Company to recover the same from the claimant in the manner known to law. No costs. Consequently, the connected miscellaneous petition stands closed.

14-07-2026

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

To:

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Cuddalore.
2. The Section Officer,
V.R.Section, High Court of Madras.



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N.ANAND VENKATESH J.

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