



C.M.A(MD)No.1234 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 28.04.2026

PRONOUNCED ON:10.07.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.1234 of 2025

and

C.M.P.(MD)Nos.7253 of 2025 and 389 of 2026

The Branch Manager,
Reliance General Insurance Co., Ltd.,
No.10/44, 2nd Floor, Thaiga Plaza,
South Bye Pass Road, Vannarapettai,
Tirunelveli District – 627 003.

: Appellant/2nd Respondent

Vs.

1.Kulanthai Thersu
2.Sagayaraj
3.Ishabellah
4.Ebilinalmary
5.Elizabeth

: Respondents 1 to 5/Petitioners 1 to 5

6.Fathima Begam

: 6th Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the award dated 07.01.2025 made in M.C.O.P.No.812 of 2019, on the file of the Motor Accident Claims Tribunal, Special District Court No.I, to deal with MCOP cases, Tiruchirappalli.



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C.M.A(MD)No.1234 of 2025

For Appellant : Ms.K.R.Shivashankari

For Respondents :Mr.J.Madhu
for R.1 to R.5

: R.5 – refused – No Appearance

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.812 of 2019, dated 07.01.2025, on the file of the Motor Accident Claims Tribunal/Special District to deal with MCOP cases, Tiruchirappalli.

2. The appellant/Insurer who was mulcted with liability to pay compensation of Rs.10,31,900/- with interest and costs to the respondents 1 to 5 / claimants for the death of one Savarimuthu consequent to an accident occurred on 01.04.2019, challenged the liability mulcted on it.

3. For the sake of convenience and brevity, the parties will be referred as per their status and ranking in the trial Court.



C.M.A(MD)No.1234 of 2025

WEB COPY

4. The case of the claimants is that on 01.04.2019 at about 06.30p.m., the said Savarimuthu was riding his two wheeler bearing Registration No.TN-48-AV-2670 XL100 on Trichy-Chennai National Highway near SRM Hospital, U-turn from South to North by keeping his extreme left side of the road and at that time, a Xylo car bearing Registration No.TN-50-AU-5746, which was proceeded in the same direction, in a rash and negligent manner and with uncontrollable speed, dashed agaisnt the two wheeler and as a result of which, the said Savarimuthu sustained serious injuries and despite treatment, he succumbed to the injuries and that the accident occurred only due to the rash and negligent driving of the Xylo car driver.

5. The defence of the second respondent/Insurer is that Xylo car bearing Registration No. TN-50-AU-5746 was not at all involved in the accident, that the F.I.R., registered against the Xylo car driver is tainted with fraud and collusion between the claimants, police and the owner of the Xylo car – first respondent herein, that the claimants and the vehicle owner have colluded together and have brought about the accident on the

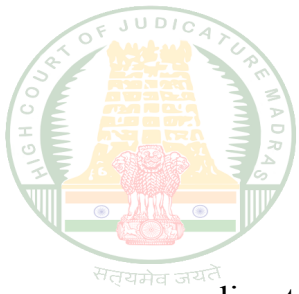


C.M.A(MD)No.1234 of 2025

paper and that therefore, the second respondent is not liable for any claim.

6. It is the further case of the second respondent that the deceased was not having valid driving licence at the time of accident and that he was not wearing helmet and that due to the non adherence of the mandatory requirements and due to the careless act, the deceased had sustained injuries and died on his own negligence.

7. During trial, the claimants examined the first claimant as P.W.1 and one Kathiresan alleged to be the occurrence witness as P.W.2 and exhibited 21 documents as Exs.P.1 to P.21. The first respondent – owner of the Xylo car had remained exparte. The second respondent – Insurer examined three witnesses R.W1 to R.W.3 and exhibited four documents as Exs.R.1 to R.4 and six witness documents came to be exhibited as Exs.X.1 to X.6. The learned trial Judge, upon considering the pleadings and evidence both oral and documentary and on hearing the arguments of both sides, passed the impugned order dated 07.01.2025 holding that the first respondent's vehicle's driver caused the accident and on that basis



C.M.A(MD)No.1234 of 2025

WEB COPY

directed the second respondent/Insurer to pay compensation of Rs.10,31,900/- with interest and costs. Aggrieved by the impugned order, the Insurer has preferred the present Civil Miscellaneous Appeal.

8. The learned Counsel for the appellant/Insurer would submit that despite showing that the first respondent's vehicle was not involved in the accident and it was falsely implicated for claiming compensation, the Tribunal without considering the same, has erroneously mulcted the liability on it, that the Xylo car driver who was examined as R.W.2, has deposed that he has not caused any accident and his vehicle was not involved in the accident, that the Insurer has sent a letter to the Inspector of Police of concerned police station and also the Deputy Superintendent of Police complaining about the non-involvement of the Insurer vehicle, but there was no action, that the Insurer has produced the letters given by the owner and the driver of the Xylo car under Exs.R.3 and R.4 informing that their vehicle was falsely implicated in the accident and that the Tribunal without considering the material aspects, has mechanically held that the first respondent vehicle driver was responsible for the accident and therefore, the said finding is liable to be set aside.



C.M.A(MD)No.1234 of 2025

WEB COPY

9. The learned Counsel for the claimants would submit that though F.I.R., was registered against the unknown vehicle, the jurisdictional police, after investigation has found that the first respondent's vehicle was involved in the accident and laid a charge sheet against the first respondent's driver (R.W.2), that P.W.2 occurrence witness has clearly deposed that the first respondent's vehicle was involved in the accident, that the Insurer has sent letters as Exs.R.1 to R.2 during the pendency of the present appeal, that the letters alleged to have been given by the owner and the driver of the Xylo car viz., Exs.R.3 and R.4 are self serving documents and the same cannot be relied on for any purpose and that the Tribunal considering the evidence available on record, as rightly come to the conclusion that the accident had occurred only due to the rash and negligent driving of the Xylo car driver and as such, the said finding does not warrant any interference.

10. As already pointed out, the main defence of the Insurer is that the first respondent's vehicle was not involved in the accident and that the F.I.R., is tainted with fraud and collusion. It is pertinent to note that



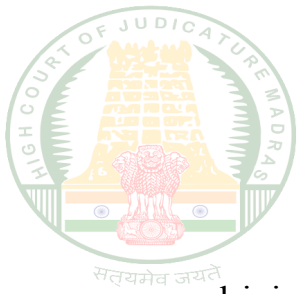
C.M.A(MD)No.1234 of 2025

WEB COPY

though the F.I.R., came to be registered against an unknown vehicle in Cr.No.68 of 2019, on the file of the Samayapuram Police Station under Section 304-A I.P.C., the jurisdictional police, after completing the investigation, filed the final report against the Xylo car driver and the criminal case in C.C.No.2023 of 2019 is pending on the file of the Court of the Judicial Magistrate No.III, Trichirappalli.

11. No doubt, the Insurer summoned and examined the Xylo car driver as R.W.2, who in turn has deposed in tune with the defence taken by the second respondent. But in cross-examination, R.W.2 has admitted that he was arrested in connection with the criminal case and that his driving licence was suspended by the Regional Transport Officer. Though R.W.2 has alleged that he sent a complaint to the Inspector General of Police alleging that a false case was being foisted against him, he has not even produced the copy of the complaint nor any other material to substantiate the same.

12. It is pertinent to mention that R.W.2 in his cross-examination has admitted that he did not take any action against the suspension of his



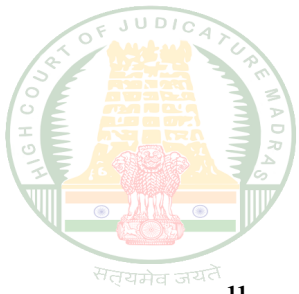
C.M.A(MD)No.1234 of 2025

WEB COPY

driving licence by the Regional Transport Office. It is also not the case of R.W.2 that he preferred a complaint before the police higher officials for arresting him in connection with the false case and for filing final report in the said case, nor any other action challenging the final report filed against him.

13. Admittedly, the Insurer had sent letters to the jurisdictional Inspector of Police and the Deputy Superintendent of Police under Exs.R.1 and R.2 complaining about the inclusion of the first respondent's vehicle in the accident but only on 12.01.2024, during the pendency of the claim petition before the Tribunal. It is pertinent to note that the claim petition was filed in the year 2019, but after the lapse of five years, the above letters came to be sent. It is not the case of the second respondent that since there was no response to the said letters, they have preferred complaints before the higher police officials nor taken any further action in this regard.

14. The learned counsel appearing for the second respondent/Insurance Company placed reliance on the statements



C.M.A(MD)No.1234 of 2025

WEB COPY

allegedly given by the owner of the Xylo car (the first respondent) and its driver (R.W.2), marked as Exs.R3 and R4 respectively, to contend that the first respondent's vehicle was not involved in the accident and that R.W.2 had not caused the accident. As rightly observed by the learned Tribunal, both the statements are self-serving documents allegedly addressed to the second respondent/Insurance Company. Moreover, when R.W.2 was examined before the Tribunal, the contents of Ex.R4 were neither put to him during his examination nor was the said document marked through him.

15. As already pointed out, the first respondent remained ex parte before the Tribunal. The second respondent/Insurance Company did not choose to summon and examine the first respondent to substantiate its defence. As rightly observed by the learned Tribunal, if R.W.2 had in fact been falsely implicated in the criminal case and his driving licence had been suspended without any fault on his part, he would have taken appropriate legal proceedings to challenge the same. But, R.W.2, in his evidence, has categorically admitted that he had not taken any such action.



C.M.A(MD)No.1234 of 2025

WEB COPY

16. On considering the entire evidence available on record, the Tribunal has rightly come to the conclusion that the first respondent Xylo car was involved in the accident and the accident had occurred only due to the rash and negligent driving of the Xylo car driver and that the said finding cannot be found fault with.

17. The learned Counsel for the appellant would then contend that the deceased was not possessing valid driving licence at the time of accident and he was not wearing helmet and that the Tribunal ought to have held that the deceased had also contributed to the accident.

18. The Hon'ble Supreme Court in ***Sudhir Kumar Rana Vs. Surinder Singh and Others*** reported in ***2008(12) SCC 436***, has specifically held that driving vehicle without driving licence while an offence, does not by itself lead to a finding of negligence as regards the accident, unless it is proved that the lack of licence contributed to the accident. It is necessary to refer the relevant passages hereunder:



WEB COPY



C.M.A(MD)No.1234 of 2025

“8. If a person drives a vehicle without a licence, he commits an offence. The same, by itself, in our opinion, may not lead to a finding of negligence as regards the accident. It has been held by the courts below that it was the driver of the mini-truck which was being driven rashly and negligently. It is one thing to say that the appellant was not possessing any licence but no finding of fact has been arrived at that he was driving the two-wheeler rashly and negligently. If he was not driving rashly and negligently which contributed to the accident, we fail to see as to how, only because he was not having a licence, he would be held to be guilty of contributory negligence.

9. The matter might have been different if by reason of his rash and negligent driving, the accident had taken place.”

19. A Division Bench of this Court in the case of ***Managing Director, Tamil Nadu State Transport Corporation, Madurai Ltd., Dindigul Vs. Mariammal and others*** in C.M.A.(MD)No.445 of 2026, dated 06.04.2026 has held that the question of apportioning contributory negligence on the sole ground of non-wearing of helmet does not arise in the absence of any evidence to establish the negligence riding on behalf of the deceased and the relevant portions are extracted hereunder:



C.M.A(MD)No.1234 of 2025

WEB COPY

“In the absence of any evidence to establish negligent riding on the part of the deceased, the question of apportioning contributory negligence on the sole ground of non-wearing of a helmet does not stand to reason. Even in cases where fatal head injuries are sustained, the same cannot automatically lead to an inference of contributory negligence.”

20. In the case on hand, the second respondent has failed to prove that either the absence of a valid driving licence or the non-wearing of a helmet had contributed to the occurrence of the accident. In the absence of any material to show that the negligence of the deceased had also contributed to the accident, the contentions advanced on behalf of the second respondent/Insurance Company cannot be sustained.

21. The learned Counsel for the appellant would then contend that the Tribunal has awarded compensation to the married daughters of the deceased and that since they were not dependants of the deceased, award in their favour cannot legally be sustained. The learned Counsel for the appellant placed reliance on the decision of the Hon'ble Supreme Court



C.M.A(MD)No.1234 of 2025

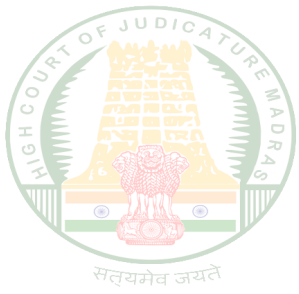
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in ***Deep Shikha and another Vs. National Insurance Company Ltd., and Others*** reported in ***2025 Live Law (SC) 561***, wherein it has been observed that a married daughter cannot claim compensation as a dependant of the deceased.

22. At this juncture, it is necessary to refer the judgment of the Hon'ble Apex Court in ***Jithendra kumar and another Vs. Sanjay Prasad and another*** in ***Civil Appeal No.7199 of 2025, dated 22.05.2025***, wherein it was specifically held that the legal representatives, including married and earning sons and daughters, are entitled to claim compensation under the Motor Vehicles Act, irrespective of whether they were financially dependent on the deceased and the relevant passages are extracted hereunder :

13. In our considered opinion, the view on this issue cannot be faulted. The exposition of law in Birender (Supra) is clear, wherein it was observed as under:

“14. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of



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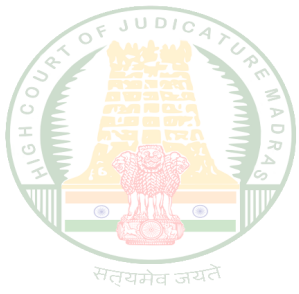


C.M.A(MD)No.1234 of 2025

the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only.”

14. Such exposition came to be followed by this Court in Seema Rani and Ors. v. Oriental Insurance Co. Ltd. and Ors. 6 , wherein it was observed that the application for compensation, even by married sons and daughters, must be considered, irrespective of whether they are fully dependant or not. In the present case, it cannot be disputed that the claimant-appellant(s) became partner in the consultancy firm run by the deceased. Moreover, it is not in dispute that that the Flour Mill being run by the deceased, is still being run by the claimant-appellant(s). In such a factual circumstance, it cannot be said that the claimant-appellant(s) were financially dependent upon the deceased.

15. Therefore, in view of the above, while the claimant appellant(s) were not dependent upon the deceased, they are entitled to receive compensation as his legal representatives, in accordance with law. Thus, the deduction towards the loss of personal and living expenses is to be ½ (50 % of the income of the deceased) in accordance with law.”



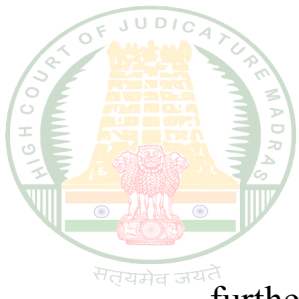
C.M.A(MD)No.1234 of 2025

WEB COPY

23. A careful reading of the decision in Deep Shikha would show that the Hon'ble Supreme Court has not held that a married daughter is disentitled to claim compensation under the Motor Vehicles Act. What has been held therein is that a married daughter, if not financially dependent upon the deceased, cannot claim compensation as a dependant. However, being a legal representative, she is entitled to maintain the claim petition and receive compensation in accordance with law.

24. In the light of the legal principles laid down by the Hon'ble Supreme Court in Jithendra Kumar and the earlier decisions referred to therein, this Court has no hesitation in holding that the married daughters of the deceased, being his legal representatives, are entitled to maintain the claim petition and receive compensation, notwithstanding the fact that they were not financially dependent upon the deceased.

25. The appellant/Insurer, though has raised a ground in the appeal memorandum that granting of compensation at Rs.10,31,900/- is excessive and is liable to be set aside, has not elaborated anything

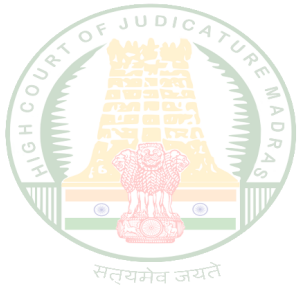


C.M.A(MD)No.1234 of 2025

WEB COPY

further. The appellant has not specifically challenged the quantum of compensation awarded by the Tribunal. Excepting the above, the appellant has not raised any other ground to impugn the award. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

26. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant – Insurance Company is directed to deposit the entire award amount along with accrued interest and costs, to the credit of above said M.C.O.P.No.812 of 2019, on the file of the Motor Accident Claims Tribunal / Special District Court No.I (To deal with MCOP Cases), Tiruchirappalli, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment and on such deposit, the claimants are entitled to get the award amount as apportioned by the Tribunal and withdraw the proportionate amount along with interest and costs on due application before the Tribunal. Consequently, the connected Civil Miscellaneous Petitions are also dismissed. The parties are directed to bear their own costs.



C.M.A(MD)No.1234 of 2025

10.07.2026

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NCC : Yes : No

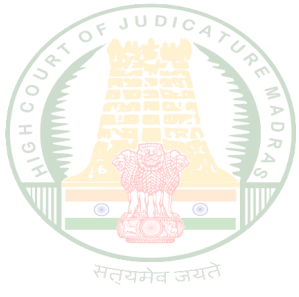
Index : Yes : No

Internet : Yes : No

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To

1. The Motor Accident Claims Tribunal /
Special District Court No.I,
(to deal with MCOP Cases) Tiruchirappalli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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C.M.A(MD)No.1234 of 2025

K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

C.M.A(MD)No.1234 of 2025

10.07.2026